

McKenna, Douglas

From: Greco, Philip
Sent: Wednesday, March 20, 2013 11:55 AM
To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357
Attachments: 0301130733a.jpg; 0304131002.jpg; 0304131004.jpg; 2510711.jpg; 2510711_2.jpg

Note: You will receive several emails, with a total of 21 pictures. Attached are photographs of the property that is the resultant of the activity. Also, photos numbered 2510711.jpg and 2510711 2.jpg were taken prior – the summer of 2012.

From: Greco, Philip
Sent: Wednesday, March 20, 2013 11:15 AM
Subject: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

EPA's Water Compliance Branch ("WCB") is presently reviewing data/information pertaining to the excavation/grading/soil disturbance activity of the coastal property of LeHavre Owners Corp. between 9th and 12th Avenues, Whitestone, N.Y. conducted on 02/28/13 and 03/01/13. Specifically, this activity may constitute a Clean Water Act ("CWA") violation pursuant to 40 CFR Sections 122.26(a)(1)(ii), 122.26(b)(14), 122.26(b)(14)(x) and 122.26(b)(15)(i).

Initial information/data available to WCB is summarized below:

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- (5) To date, records review indicate that management did not submit any applications for the planned activity. It is presently assumed that this was an unpermitted, unauthorized activity.

As previously stated, WCB is presently investigating the activity as to its merits pertaining to compliance. If you have any information pertaining to this case to help in WCB's assessment, it is respectfully requested that it be submitted via e-mail to greco.philip@epa.gov

Again, thank you for your cooperation in this matter.

Respectfully,

Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA – Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: Greco, Philip
Sent: Wednesday, March 20, 2013 11:58 AM
To: Greco, Philip; rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lanther, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357
Attachments: 0301130731.jpg; 0301130731a.jpg; 0301130732.jpg; 0301130733.jpg; 0304131004a.jpg

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To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357
Attachments: 0307130727.jpg; 0307130727a.jpg; 0307130728.jpg; 0307130729.jpg; 0307130730.jpg

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McKenna, Douglas

From: Greco, Philip
Sent: Wednesday, March 20, 2013 12:02 PM
To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357
Attachments: 0307130731.jpg; 0307130732.jpg; 2013030495100315.jpg; leharve22.jpg; Lehavre20.JPG; Lehavre21.jpg

Note: This is the last of several emails that you received, with a total of 21 pictures. Attached are photographs of the property that is the resultant of the activity. Also, photos numbered 2510711.jpg and 2510711 2.jpg were taken prior – the summer of 2012.

McKenna, Douglas

From: Peter Smytho [petersmytho0520@gmail.com]
Sent: Wednesday, May 22, 2013 9:52 AM
To: McKenna, Douglas
Subject: Fwd:

----- Forwarded message -----

From: **Peter Smytho** <petersmytho0520@gmail.com>
Date: Tue, May 21, 2013 at 3:14 PM
Subject: Fwd:
To: alglo2@aol.com

----- Forwarded message -----

From: **Peter Smytho** <petersmytho0520@gmail.com>
Date: Mon, May 20, 2013 at 8:31 PM
Subject: Fwd:
To: anncsllv@aol.com

----- Forwarded message -----

From: **Peter Smytho** <petersmytho0520@gmail.com>
Date: Mon, May 20, 2013 at 8:30 PM
Subject: Re:
To: anncsllv@aol.com

As you are aware , the removal of wetland vegetation, back fill, grading and tilling from the shoreline to the perimeter of the buildings and pool structures was performed on Feb.28, 2013 and March 1, 2013 by The LeHavre Owners Corp. (168-68 9th Avenue, Whitestone , NY 11357) Between 9th and 12th Avenue in an illegal manner. It is believed that the Le Havre Owners Corp. performed this activity by exploiting the NYS's Hurricane Sandy General Permit (GP-2-12-002) that was issued to the USACE with e help of politicians (Council Member) Daniel Halloran, State Senator Tony Avella Assembly Member Edward Braunstein and Congressman Steve Israel) ,

They have justified any improper behavior based on the fact that they are permitted by the NYSDEC to perform any activity and boast that they have the "Imprimatur of these Politicians" in reality , The LeHavre Owners Corp are not permitted but continue to violate both Federal Tidal Coastal Wetlands and State Wetlands Regulations including the adjacent Wetland Boundary Layers as stipulated by law for the sake of a " Water Front Beach View".

Since the decimation of the Wetland Vegetation on 2/28/13 and 3/1/13 , the ecosystem began to slowly rebound with some vegetation regrowth. However, if the past violations perpetrated by The LeHavre Owners Corp. on the Wetlands , the ecosystem and bird populations were not enough , on 5/16/13 and 5/17/13, and employee of The Lehavre Owners Corp .cut down any vegetation regrowth between 9th and 12th Avenue. This criminal action was captured on video and is present for your review (SEE THE 4 LINKS LOCATED ABOVE).

The main items of concern and or facts that can be realized by the videos noted above are as follows:

- 1) A male dressed in the LeHavre Owners Corp Uniform is noted on the coastline between 9th and 12th Avenue
- 2) The Male noted in (1) above is holding a battery powered "hedge clipper" type device.
- 3) The male noted above is known name as "Estaban" and is employed as a maintenance man for The LeHavre Owners Corp.
- 4) The male is seen cutting down the newly grown vegetation from the coastline to the pool and building areas from 9th to 12th Avenue.
- 5) The male is not retrieving (removing, the cut vegetation in the Federal Wetlands Jurisdiction, thus leaving debris in the Federal Regulated Tidal Wetlands which is a serious violation.
- 6) The male is seen methodically cutting away the Wetlands in the Federal and State as well as the Wetland Boundary Layers.
- 7) The act of both days was connected in the dawn which is not the routine time for this activity nor representative of the morning shift of maintenance men at this facility. The exact times are noted in the time/day dated videos.
- 8) It is unlikely this male was performing these acts on his own initiative.
- 9) Both Piotra (pete) Moscicki and Charles Cervello are the Superintendents of the maintenance department.
- 10) Ms. Margaret Costello is the property Manager and Expediter of the issues pertaining to the operation of the complex.
- 11) The primary activity's on a daily basis is mandated by the President of the Board of Directors, Stanley Greenburg and the onsite member of the Board of Directors, Steve Young.
- 12) Based on past compliance history the The LeHavre Owners Corp. was issue by the NYSDEC a NOV, Consent Order (DEC FILE NO. R2-0096-98-08 and Consent order (DEC FILE NO. R2-20050928-339) for Wetland Violation including removal of vegetation.

This Corporation as well as individuals of the corporation and the Property Manager exhibits a pattern of non-compliance both past and present which are both Civil and Criminal Acts. They must be stopped, the Wetlands are in constant jeopardy by these players at their discretion.

It is believed that based on a self serving motivation, The Lehavre Owners Corp Has committed acts willfully and with knowledge. If these individuals believe that they are legitimate, then why did they send their maintenance man to cut down the Wetlands " like a thief in the night".

On Mon, May 20, 2013 at 7:29 PM, Peter Smytho <petersmytho0520@gmail.com> wrote:

<http://www.youtube.com/watch?v=KGxAolZ-U7E>

www.youtube.com/watch?v=FHdB1KA1MMg

<http://www.youtube.com/watch?v=5b2VT4Y4Xh8>

<http://www.youtube.com/watch?v=lmKOWj8G8d4>

McKenna, Douglas

From: Pohle, David
Sent: Tuesday, May 21, 2013 4:09 PM
To: Lantner, Murray; McKenna, Douglas
Cc: Balla, Richard; Montella, Daniel; Feinmark, Phyllis
Subject: FW: (CWA - FY13-106490-3709-CV) Referred to Region - New York (LeHavre)
Attachments: LeHavreSullivanLtr-draft3.docx

Doug/Murray:

The wetlands program has received two incoming letters (to RA and Bob Perciasepe), this complaint (below), and an e-mail from Ann Sullivan of Whitestone, NY, regarding the matter at LeHavre coop. We have prepared a short response letter. Please see attached. The single response letter will address all incomings from Professor Sullivan and may also respond to letters received subsequently from other private citizens in this same matter.

Due to your program's involvement we wish to add some more information on your investigation into this matter and provide you as tertiary contact. We will add you to the concurrence on the letter to be signed by Joan. Could you please revise (add to) the attached. A quick response would be much appreciated because this letter is already overdue.

Thanks,

Dave

From: Miesles, Janette
Sent: Tuesday, May 21, 2013 8:54 AM
To: Montella, Daniel; Anderson, Kate
Cc: Pohle, David
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York

Thank you

From: Montella, Daniel
Sent: Tuesday, May 21, 2013 8:49 AM
To: Miesles, Janette; Anderson, Kate
Cc: Pohle, David
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York

We already have two pieces of controlled correspondence from Ms Sullivan regarding this matter, so our reply to those will address this referral. We will send you a copy of that response when it goes out.

- Dan

From: miesles.janette@epa.gov [mailto:miesles.janette@epa.gov]
Sent: Tuesday, May 21, 2013 8:33 AM
To: Anderson, Kate; Montella, Daniel
Subject: FWD: (CWA - FY13-106490-3709-CV) Referred to Region - New York

05/21/2013

SUBJECT: FWD: (CWA - FY13-106490-3709-CV) Referred to Region - New York
FROM: miesles.janette@epa.gov

TO: Anderson.kate@epa.gov, Montella.Daniel@epa.gov
CC:

-----Original Message-----

5/18/2013 8:30 PM

HQ LEAD NUMBER: FY13-106490-3709-CV

SUBJECT: Referred to Region - New York

FROM: anncsllv@aol.com

TO:

Name: Ann Sullivan

Address: 168-11 12th Avenue

City: Whitestone

State: New York

Zip: 11357

Alleged Violator's Name: THE LEHAVRE OWNERS CORP

Alleged Violator's Address: 168-68 9TH AVENUE

Alleged Violator's City: WHITESTONE

Alleged Violator's State: New York

Alleged Violator's Zip: 11357

Tip or Complaint: I am a resident of the CO-OP Complex, LeHavre on the Water, Whitestone, N.Y., which is owned/operated by LeHavre Owners Corp. (168-68 9TH Avenue), Whitestone, N.Y. Stanley Greenburg, President. On 2/28/13 and 3/1/13, a removal project of debris on the coastline between 9th and 12th Avenues was conducted by the Lehavre Owners Corp. which consisted of a heavily mechanized operation. The removal was conducted from the waterline to the building property. The wetland vegetation was removed from both the areas designated as Federal Tidal and State Wetlands as defined by law. Both the designated wetlands and the adjacent wetland boundary layers were disturbed, vegetation removed, graded and back filled with material from an outside source. The contractor hired by the LeHavre Owners Corp. was Riccelli Enterprises/Trucking. I believe the following violations of the Federal Clean Water Act and the State Environmental Law has occurred: (1) Wetlands were removed improperly via Federal and State Law: (2) Erosion Control and Storm Surge protection was not considered: Back fill was used on both the Federal and State wetlands of undocumented origin. Verification of the back fills quality is required to assess if it is acceptable as prescribed by law. How do I know that the fill was not contaminated and is toxic to the wildlife, vegetation, aquatic life or even us: (3) Management (LeHavre Owners Corp.) continues to aerate, till and plant "grass" in the wetlands and the adjacent boundary were wetland vegetation once existed. This activity is unpermitted and in violation of wetland laws. I would appreciate your attention to this irresponsible and potentially illegal behavior on our environment.

Violation Still Occurring? Yes

State DEP/DEQ/DEM Notified? No

McKenna, Douglas

From: Robert Elburn [rhelburn@gw.dec.state.ny.us]
Sent: Thursday, March 28, 2013 12:24 PM
To: McKenna, Douglas
Cc: Selvin Southwell
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Hi Doug,

You are correct. I was out for the past few days.

The property has not applied for any DEC permits. I am told that the Tidal Wetlands program sent out an NOV for this property. I would like to provide you with the details, however the individual who issued the NOV is out this week. Can this wait until next week or do you need the information sooner?

Best regards,
Bob



Robert Elburn, P.E. | Regional Water Engineer
New York State Department of Environmental Conservation
47-40 21st Street | Long Island City, NY 11101

☎ : 718.482-4930 | 🖨 : 718.482-4026

[website](#) | [directions](#) | [email](#) |

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>>> "McKenna, Douglas" <McKenna.Douglas@epa.gov> 3/28/2013 8:39 AM >>>

Bob, any answer on this? I'm copying Selvin in case you are out on Holiday.

Thanks Doug

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:38 AM
To: 'rhelburn@gw.dec.state.ny.us'
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob I missed a couple of letters in your email address thanks Doug

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:31 AM
To: 'rhelburn@gw.dec.state'
Cc: Montella, Daniel; Lantner, Murray
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob, Phil Greco is an engineer in My Branch who lives in this co-op complex. Some entity cleared all vegetation between the complex and the coastline between 9th and 12th ave. in Whitestone.

Does DEC have any information on this? Who did it, why and under what permitting authority?

Thanks Doug

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Respectfully,

Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA – Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: Selvin Southwell [stsouthw@gw.dec.state.ny.us]
Sent: Monday, April 01, 2013 11:28 AM
To: McKenna, Douglas; Robert Elburn
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357
Attachments: image2013-04-01-085516.pdf

Doug,

As it turns out, no NOV was issued to the site. The work at the site was performed by **USACOE** under a DEC Hurricane Sandy General Permit (see attached). This work was characterized as removal of storm debris within private properties from areas within 100 feet of wetlands and waterways.

I spoke to our Tidal Wetlands staff (Susan Maresca) this morning and she informed me that Dan Montella of EPA has been informed that DEC will be working cooperatively with USACOE to get a restoration project completed.

Selvin



Selvin Trevor Southwell, P.E. | Deputy Regional Water Engineer
Division of Water
New York State Department of Environmental Conservation
47-40 21st Street Long Island City, NY 11101
☎: 718.482-4881 | 📠: 718.482-6516
[website](#) | [directions](#) | [email](#)

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>>> "McKenna, Douglas" <McKenna.Douglas@epa.gov> 3/28/2013 8:39 AM >>>

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Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA - Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: Montella, Daniel
Sent: Tuesday, April 09, 2013 11:21 AM
To: Lantner, Murray; McKenna, Douglas
Cc: Pohle, David
Subject: RE: FW: Excavation work along water in Queens

No, not without authorization, DEC regs basically cover all activities

- Dan

From: Lantner, Murray
Sent: Tuesday, April 09, 2013 10:09 AM
To: Montella, Daniel; McKenna, Douglas
Cc: Pohle, David
Subject: RE: FW: Excavation work along water in Queens

Can you put a lawn in the a state buffer?

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: Montella, Daniel
Sent: Tuesday, April 09, 2013 8:38 AM
To: McKenna, Douglas
Cc: Pohle, David; Lantner, Murray
Subject: FW: FW: Excavation work along water in Queens

DEC hasn't approved anything and said they will inspect this week. I forwarded Phil's photos from yesterday. Odds are they are planning to put in a lawn. I guess I won't be shocked if half of it is covered by sod by noon today. But I think most of the site is regulated state buffer and not federal tidal waters

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Tuesday, April 09, 2013 7:39 AM
To: Montella, Daniel
Subject: RE: FW: Excavation work along water in Queens

Dan,
We are still working with the ACOE, we were planning to meet out at the site shortly to develop the plan. One of my staff was out there last week to take pictures and musty have missed the new work, but I will have an ECO stop by this week to keep an eye on the site while we are working towards restoration. Once we have a plan, I will definitely share it with you.

Thanks,
Susan

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 4/8/2013 9:46 AM >>>

Hello, some activity's been reported at this location (land prep, sprinkler system). is there a revegetation plan underway? If there is and you can share the details of what's required, I'd appreciate it.

thanks

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Wednesday, March 06, 2013 11:32 AM
To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
Subject: Re: FW: Excavation work along water in Queens

Dan,
Loss of wetland vegetation should not have occurred during this clean-up. One of our biologists is calculating the wetland vegetation lost due to excavation, and we are planning to work cooperatively with the ACOE to get the area replanted with appropriate wetland vegetation this growing season.
Regards,
Susan

Susan Maresca | Marine Resources Program Manager
New York State Department of Environmental Conservation, Region 2 - New York City
47-40 21st Street, Long Island City, NY 11101
P: 718-482-6461 | **F:** 718-482-4502 | simaresc@gw.dec.state.ny.us

NYSDEC website | Directions to Region 2

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 3/6/2013 10:06 AM >>>

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To: 'smzahn@gw.dec.state.ny.us'
Cc: Pohle, David
Subject: Excavation work along water in Queens

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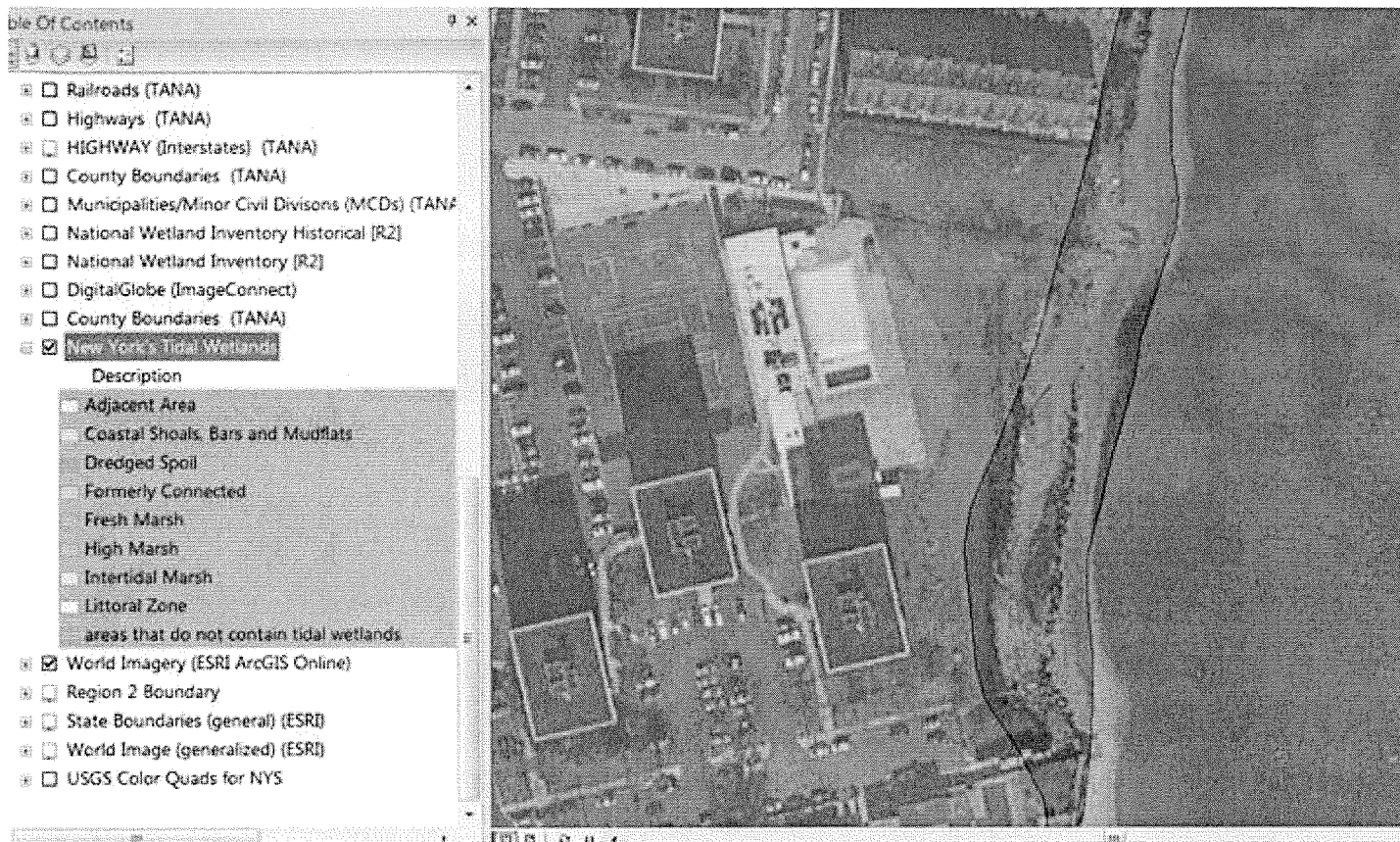
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[illegible]

Daniel Montella
Chief, Wetlands Protection Section
Watershed Management Branch
US Environmental Protection Agency, Region 2
290 Broadway
NY, NY 10007
212-637-3801
212-637-3889 (fax)

[illegible]





McKenna, Douglas

From: Montella, Daniel
Sent: Tuesday, April 09, 2013 8:38 AM
To: McKenna, Douglas
Cc: Pohle, David; Lantner, Murray
Subject: FW: FW: Excavation work along water in Queens

DEC hasn't approved anything and said they will inspect this week. I forwarded Phil's photos from yesterday. Odds are they are planning to put in a lawn. I guess I won't be shocked if half of it is covered by sod by noon today. But I think most of the site is regulated state buffer and not federal tidal waters.

- Dan

From: Susan Maresca [mailto:simaresc@gw.dec.state.ny.us]
Sent: Tuesday, April 09, 2013 7:39 AM
To: Montella, Daniel
Subject: RE: FW: Excavation work along water in Queens

Dan,
We are still working with the ACOE, we were planning to meet out at the site shortly to develop the plan. One of my staff was out there last week to take pictures and musty have missed the new work, but I will have an ECO stop by this week to keep an eye on the site while we are working towards restoration. Once we have a plan, I will definitely share it with you.
Thanks,
Susan

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 4/8/2013 9:46 AM >>>
Hello, some activity's been reported at this location (land prep, sprinkler system). is there a revegetation plan underway? If there is and you can share the details of what's required, I'd appreciate it.

thanks

- Dan

From: Susan Maresca [mailto:simaresc@gw.dec.state.ny.us]
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To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
Subject: Re: FW: Excavation work along water in Queens

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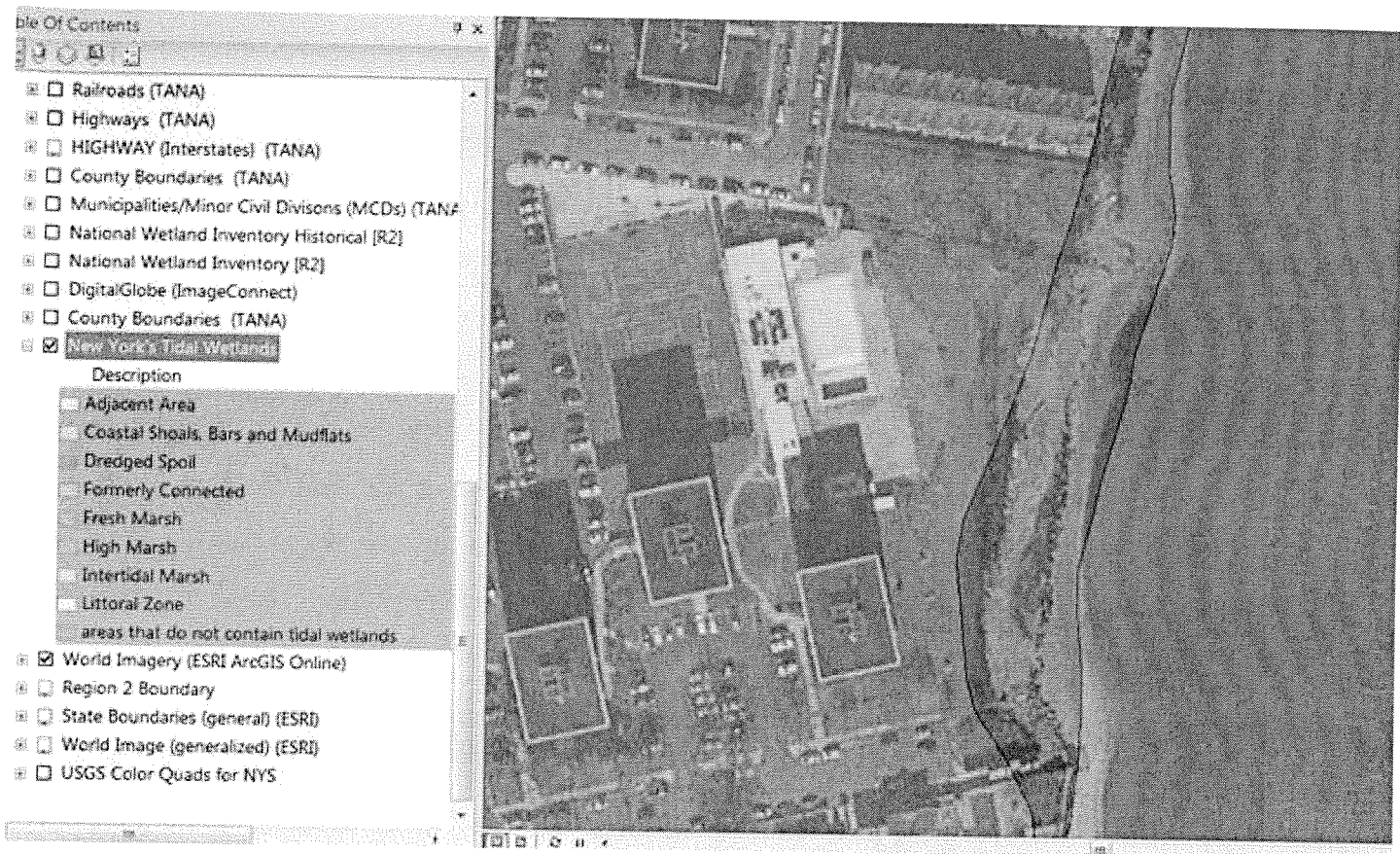
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An aerial photograph of a city, likely New York City, showing a dense urban grid. A large, light-colored arrow is superimposed on the image, pointing towards a specific area in the lower right quadrant. The arrow originates from the right edge and points towards a cluster of buildings and streets. The overall image is in black and white, with a grainy texture.



McKenna, Douglas

From: Montella, Daniel
Sent: Monday, April 08, 2013 11:56 AM
To: McKenna, Douglas
Cc: Lantner, Murray; Pohle, David
Subject: RE: FW: Excavation work along water in Queens

Here's a predevelopment archeological report of the property that you might find of interest. Very detailed.
http://nytelecom.vo.llnwd.net/o15/agencies/lpc/arch_reports/614.pdf

- Dan

From: McKenna, Douglas
Sent: Monday, April 08, 2013 8:37 AM
To: Montella, Daniel
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Hey Dan apparently they installed a sprinkler system where the wet land vegetation was removed I am not sure that the appropriate wetland vegetation DEC expects to be planted really needs a sprinkler system so maybe they plan to plant grass and have a lawn.

Can you please give your DEC contacts a heads up, I have let mine know.

Doug

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Thanks, could be necessary in the short term in order to ensure survival of plantings. I'll ask.

- Dan

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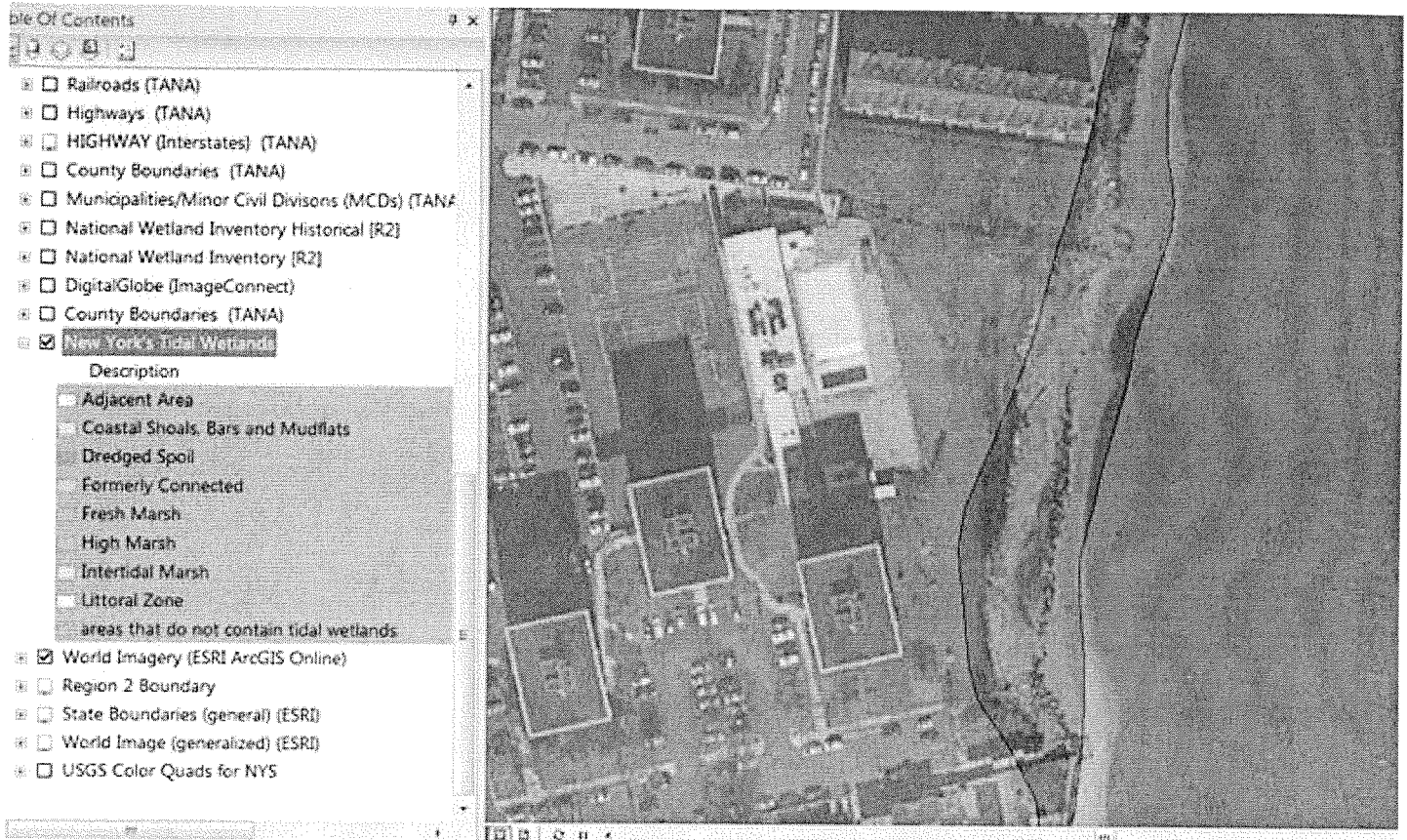
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New York State Department of Environmental Conservation, Region 2 - New York City
47-40 21st Street, Long Island City, NY 11101

P: 718-482-6461 | F: 718-482-4502 | simaresc@gw.dec.state.ny.us

NYSDEC website | Directions to Region 2

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 3/6/2013 10:06 AM >>>

More on this, a local resident sent the below report. EnCon officers visited the site. Also, photos taken last week after the work was done are attached. Could this have been permitted?

thanks

- Dan

Below, please find additional information pertaining to the recent "clean-up" project of the tidal coastal wetlands located on the Le Havre complex property:

General Information: The property is managed on site by the Le Havre Owners Corp., 168-68 9th Avenue, Whitestone, N.Y. 11357 ("the facility"). The facility consists of thirty two (32) residential co-op buildings located on the coastline of the Upper East River and the Long Island Sound.. The facility board president is Stanley Greenburg and the facility manager is Margaret Costello. The office phone number is 718 767-7400, fax 718 746-6548.

Past Compliance History: On at least two (2) occasions, the facility has been cited for infractions/impingement of the tidal coastal wetlands by the NYSDEC which resulted in Consent Orders and penalties.

Recent Regulatory History: In early January, a site inspection of the wetlands was conducted by the NYCDEC Environmental Police due to public concern that an impending cleanup of the wetlands may not be properly conducted as required since it was common knowledge that a beach was preferred over the wetlands. NYSDEC Officer Doreen Lum inspected the facility and meet with management. The officer related that in order to proceed with a wetland clean-up, a permit must be obtained which describes the project (including but not limited to excavating, grading, surge protection etc...). Also, a soil erosion permit is required.

Facility Clean-up: On Thursday morning, February 28, 2013, three(3) Bobcat type units and two (2) dump trucks (Ricochelli logo) proceeded to "clean-up" the wetlands. (This action was unannounced to the shareholders of the facility). In response, the NYSDEC Environmental police were summoned to evaluate this action. Officer Lum was not available, The NYSDEC Environmental Police sent Officer Shay Matte (sp.) to investigate. That day, in the afternoon, I spoke to Officer Matte. He related to me that the management office did not have any copies on site of a permit/applications to perform this work. He stated that he would call the DEC office in Albany, N.Y. to retrieve these documents via a fax. I requested that he send me copies by fax. He agreed and took my fax number. To date, no reply. Additionally, he stated that the clean-up was proceeding since it was being conducted "solely" under the supervision of the Corps of Engineers in conjunction with Fema??????

The "clean-up" continued that day and concluded on March 1, 2013.

The results of this clean-up have been memorialized with photographs of which you will receive on Wednesday. It appears that this beautiful ecosystem has been converted to a beach and has been decimated through the use of poor planning, improper procedures or ill intent. Remediation is most likely required to bring back this ecosystem.

From: Montella, Daniel

Sent: Monday, March 04, 2013 11:59 AM

To: 'smzahn@gw.dec.state.ny.us'

Cc: Pohle, David

Subject: Excavation work along water in Queens

Hello, I have a report of unauthorized work in and around the shoreline at 168-68 9th Ave, Whitestone, NY, 11357. Allegedly, the Lehavre condo association is using mechanized equipment (bobcats) to excavate phrag & spartina in an effort to create a vegetation-free beach area, perhaps under the guise of "Sandy storm



McKenna, Douglas

From: Montella, Daniel
Sent: Monday, March 25, 2013 10:04 AM
To: McKenna, Douglas
Cc: Lantner, Murray
Subject: FW: FW: Excavation work along water in Queens
Attachments: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

FYI. DEC plans to have the area restored...

- Dan

From: Susan Maresca [mailto:simaresc@gw.dec.state.ny.us]
Sent: Wednesday, March 06, 2013 11:32 AM
To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
Subject: Re: FW: Excavation work along water in Queens

Dan,
Loss of wetland vegetation should not have occurred during this clean-up. One of our biologists is calculating the wetland vegetation lost due to excavation, and we are planning to work cooperatively with the ACOE to get the area replanted with appropriate wetland vegetation this growing season.
Regards,
Susan

Susan Maresca | Marine Resources Program Manager

New York State Department of Environmental Conservation, Region 2 - New York City
47-40 21st Street, Long Island City, NY 11101

P: 718-482-6461 | **F:** 718-482-4502 | simaresc@gw.dec.state.ny.us

[NYSDEC website](#) | [Directions to Region 2](#)

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thanks

- Dan

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Thanks

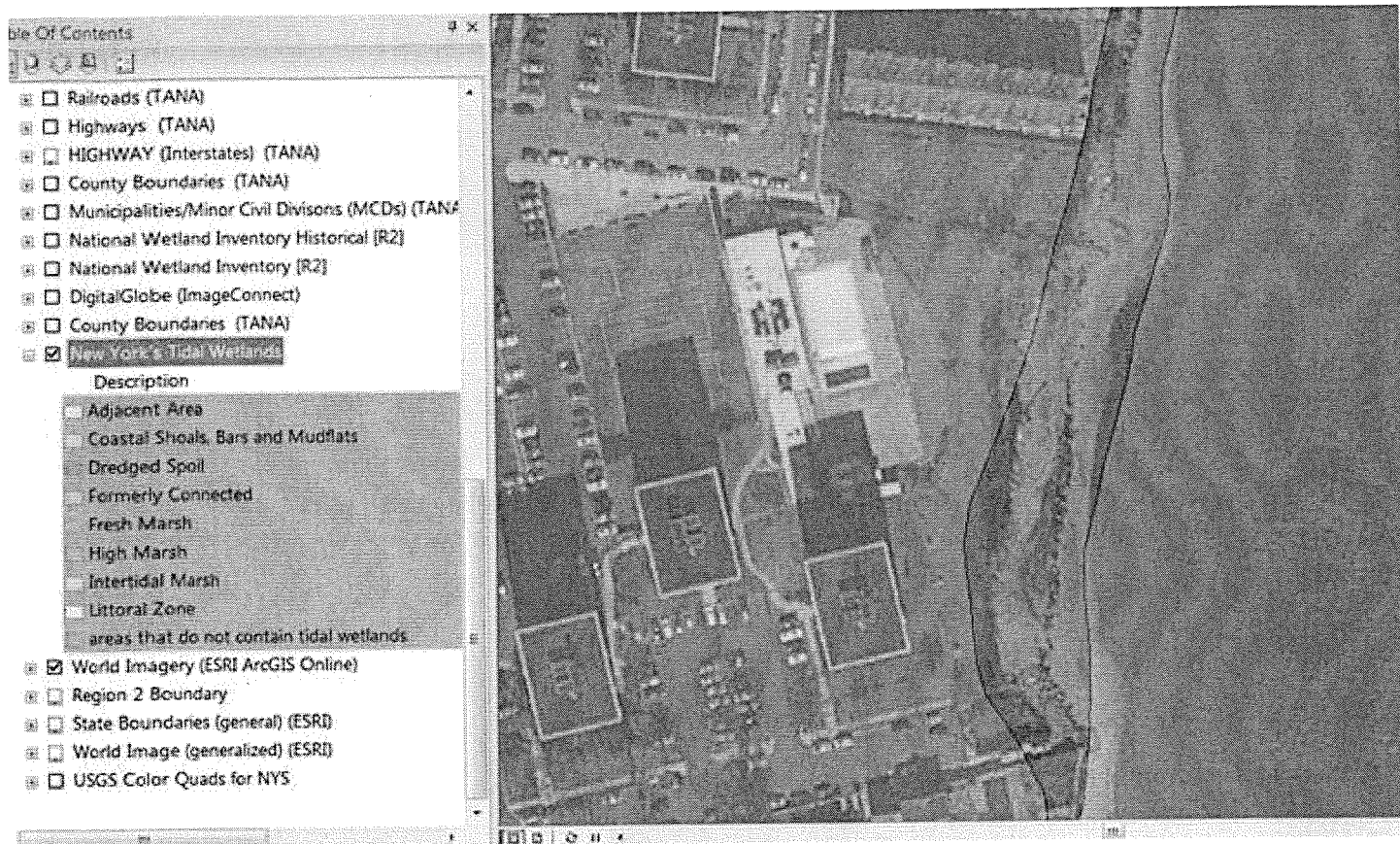
- Dan

[illegible]

Daniel Montella
Chief, Wetlands Protection Section
Watershed Management Branch
US Environmental Protection Agency, Region 2
290 Broadway
NY, NY 10007
212-637-3801
212-637-3889 (fax)

[illegible]





McKenna, Douglas

From: Lantner, Murray
Sent: Tuesday, May 21, 2013 4:41 PM
To: Pohle, David; McKenna, Douglas
Cc: Balla, Richard; Montella, Daniel; Feinmark, Phyllis
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York (LeHavre)
Attachments: LeHavreSullivanLtr-draft3_ml.docx

Doug/Dave I added some more language to the letter to cover the 402 findings.

If possible it may be worth touching base with DEC and USACE to check the current status of the potential 404 issues.

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: Lantner, Murray
Sent: Tuesday, May 21, 2013 4:20 PM
To: Pohle, David; McKenna, Douglas
Cc: Balla, Richard; Montella, Daniel; Feinmark, Phyllis
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York (LeHavre)

Dave do you want to reach out to the NYSDEC and perhaps the USACE so we can get the latest from them on the status of wetlands issues at the site before sending the response. Mainly the status of any restoration activities.

Murray Lantner, P.E., Environmental Engineer
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EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: Pohle, David
Sent: Tuesday, May 21, 2013 4:09 PM
To: Lantner, Murray; McKenna, Douglas
Cc: Balla, Richard; Montella, Daniel; Feinmark, Phyllis
Subject: FW: (CWA - FY13-106490-3709-CV) Referred to Region - New York (LeHavre)

Doug/Murray:

The wetlands program has received two incoming letters (to RA and Bob Perciasepe), this complaint (below), and an e-mail from Ann Sullivan of Whitestone, NY, regarding the matter at LeHavre coop. We have prepared a short response letter. Please see attached. The single response letter will address all incomings from Professor Sullivan and may also respond to letters received subsequently from other private citizens in this same matter.

Due to your program's involvement we wish to add some more information on your investigation into this matter and provide you as tertiary contact. We will add you to the concurrence on the letter to be signed by Joan. Could you please revise (add to) the attached. A quick response would be much appreciated because this letter is already overdue.

Thanks,

Dave

From: Mieles, Janette
Sent: Tuesday, May 21, 2013 8:54 AM
To: Montella, Daniel; Anderson, Kate
Cc: Pohle, David
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York

Thank you

From: Montella, Daniel
Sent: Tuesday, May 21, 2013 8:49 AM
To: Mieles, Janette; Anderson, Kate
Cc: Pohle, David
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York

We already have two pieces of controlled correspondence from Ms Sullivan regarding this matter, so our reply to those will address this referral. We will send you a copy of that response when it goes out.

- Dan

From: mieles.janette@epa.gov [<mailto:mieles.janette@epa.gov>]
Sent: Tuesday, May 21, 2013 8:33 AM
To: Anderson, Kate; Montella, Daniel
Subject: FWD: (CWA - FY13-106490-3709-CV) Referred to Region - New York

05/21/2013

SUBJECT: FWD: (CWA - FY13-106490-3709-CV) Referred to Region - New York
FROM: mieles.janette@epa.gov
TO: Anderson.kate@epa.gov, Montella.Daniel@epa.gov
CC:

-----Original Message-----

5/18/2013 8:30 PM

HQ LEAD NUMBER: FY13-106490-3709-CV

SUBJECT: Referred to Region - New York

FROM: anncsllv@aol.com

TO:

Name: Ann Sullivan

Address: 168-11 12th Avenue

City: Whitestone

State: New York

Zip: 11357

Alleged Violator's Name: THE LEHAVRE OWNERS CORP

Alleged Violator's Address: 168-68 9TH AVENUE

Alleged Violator's City: WHITESTONE

Alleged Violator's State: New York

Alleged Violator's Zip: 11357

Tip or Complaint: I am a resident of the CO-OP Complex, LeHavre on the Water, Whitestone, N.Y., which is owned/operated by LeHavre Owners Corp. (168-68 9TH Avenue), Whitestone, N.Y. Stanley Greenburg, President. On 2/28/13 and 3/1/13, a removal project of debris on the coastline between 9th and 12th Avenues was conducted by the Lehavre Owners Corp. which consisted of a heavily mechanized operation. The removal was conducted from the waterline to the building property. The wetland vegetation was removed from both the areas designated as Federal Tidal and State Wetlands as defined by law. Both the designated wetlands and the adjacent wetland boundary layers were disturbed, vegetation removed, graded and back filled with material from an outside source. The contractor hired by the LeHavre Owners Corp. was Riccelli Enterprises/Trucking. I believe the following violations of the Federal Clean Water Act and the State Environmental Law has occurred: (1) Wetlands were removed improperly via Federal and State Law; (2) Erosion Control and Storm Surge protection was not considered: Back fill was used on both the Federal and State wetlands of undocumented origin. Verification of the back fills quality is required to assess if it is acceptable as prescribed by law. How do I know that the fill was not contaminated and is toxic to the wildlife, vegetation, aquatic life or even us; (3) Management (LeHavre Owners Corp.) continues to aerate, till and plant "grass" in the wetlands and the adjacent boundary were wetland vegetation once existed. This activity is unpermitted and in violation of wetland laws. I would appreciate your attention to this irresponsible and potentially illegal behavior on our environment.

Violation Still Occurring? Yes

State DEP/DEQ/DEM Notified? No

McKenna, Douglas

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5/18/2013 8:30 PM

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Violation Still Occurring? Yes

State DEP/DEQ/DEM Notified? No

McKenna, Douglas

From: Lantner, Murray
Sent: Tuesday, May 14, 2013 8:52 AM
To: McKenna, Douglas; Modigliani, Justine
Subject: LeHavre on the Water
Attachments: lehavre_inspection_transmittal_1.docx

Doug/Justine:

Here is a draft of the cover letter that will transmit the LeHavre on the Water (Whitestone Queens) reconnaissance inspection report.

Doug you said to send to the DEC and I believe the Corps, but not to LeHavre, just wanted to double check and check if you had any changes to the letter.

Let me know if you want to see the electronic inspection report as well.

2

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

McKenna, Douglas

From: Lantner, Murray
Sent: Thursday, May 02, 2013 3:54 PM
To: Robb, James T SPK
Cc: McKenna, Douglas
Subject: RE: NYC_PPDR NOI debris removal from private property within 100' buffer Queens (UNCLASSIFIED)

Thank You James

Murray Lantner, P.E., Environmental Engineer Compliance Section EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

-----Original Message-----

From: Robb, James T SPK [<mailto:James.T.Robb@usace.army.mil>]
Sent: Thursday, May 02, 2013 3:46 PM
To: Lantner, Murray
Cc: Moore, James T NAN02; Hyde, Brittney R
Subject: FW: NYC_PPDR NOI debris removal from private property within 100' buffer Queens (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Per your request, here's the latest update. The address for LeHavre is 168-11 12th in the attached spreadsheet.

Jamie

-----Original Message-----

From: Robb, James T SPK
Sent: Friday, April 26, 2013 6:56 AM
To: Venetia Lannon (valannon@gw.dec.state.ny.us); John Cryan (jfcryan@gw.dec.state.ny.us); Steve Zahn
Cc: Moore, James T NAN02; Hyde, Brittney R
Subject: NYC_PPDR NOI debris removal from private property within 100' buffer Queens (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Please find attached our updated spreadsheet for this Notice of Intent with the locations of additional properties on or near waters in Queens.

Thank you,

Jamie

James T. Robb
NEPA Compliance Officer
US Army Corps of Engineers
New York Recovery Field Office
James.T.Robb@usace.army.mil
Cell: 916-397-9421

-----Original Message-----

From: Hyde, Brittney R
Sent: Friday, April 26, 2013 5:04 AM
To: Robb, James T SPK
Subject: NYC_PPDR NOI debris removal from private property within 100" buffer Queens

Jamie,

Attached is the NOI for General Permit allowing removal of FEMA eligible storm debris from areas within 100' of wetlands and waterways within private properties Queens County.

I have updated the Tidal PPDR Tab to include the following information for 101 Street DCAS, 14-28, 14-34, 16-02, 16-04 Church/Channel Street:

DACW51-9-13-1245	4446037	QUEENS 14-34 CHURCH ROAD	YES	HOLD	WAITING FOR ROE	YES
DACW51-9-13-1247	4297577	QUEENS 14-28 CHURCH ROAD	YES	HOLD	WAITING FOR ROE	YES
--	--	QUEENS	101 STREET DCAS	YES	READY FOR CT ROE	ACQUIRED
YES						

Thanks,

Brittney R. Hyde, E.I.T.
Environmental Engineer
NY RFO
US Army Corps of Engineers
Cell: (718) 747-4736
Office: (601) 634-5514

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

McKenna, Douglas

From: Lantner, Murray
Sent: Thursday, May 02, 2013 3:30 PM
To: McKenna, Douglas
Subject: FW: Tidal Wetlands - 168-68 9th Avenue, Whitestone, New York 11357 (UNCLASSIFIED) - FYI Response form USACE
Attachments: 2012_06_23 aerial LeHavre Google Earth.JPG; 2012_11_05 aerial LeHavre Google Earth.JPG; 2013_02_19 LeHarve IMG_3850.JPG; 2013_02_19 LeHarve IMG_3849.JPG

Murray Lantner, P.E., Environmental Engineer
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New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: Robb, James T SPK [mailto:James.T.Robb@usace.army.mil]
Sent: Thursday, May 02, 2013 3:08 PM
To: Lantner, Murray
Cc: Moore, James T NAN02; Hyde, Brittney R; Venetia Lannon
Subject: RE: Tidal Wetlands - 168-68 9th Avenue, Whitestone, New York 11357 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

My apologies, I had missed your earlier email as it came in at the same time as the NYSDEC inquiry. Yes NYSDEC had accepted our notice for this work. They have also visited the site with us. Here were the results (below from Susan Maresca). NYSDEC is working with the property owner to replant the area in question. Note that we did not conduct any excavation or grading activities in wetlands as described in your email and the area of concern for NYSDEC right now is an area that appears to be maintained as lawn prior to debris removal. The Google Earth photo attached from 6/23/12 (pre-storm) show the higher land on the south end of the site where your photographs are taken as lawn with a fringe of shrubs next to the beach. The Google Earth photo immediately after the storm but before our debris removal efforts (11/5/12) shows that area severely damaged by the storm, covered in debris and with the shrubs gone.

Also find a couple of pictures of the pre-work condition. The grade looks the same to me in these shots as in those you sent to us, we see no evidence of excavation, though certainly the equipment did leave tracks in the higher areas of the site (above the sand). Also note that these higher areas in your shots appear to be closely mowed in the pre-work condition and in the pre-storm condition.

We have confirmed that the issue is resolved with NYSDEC for USACE's part, but they are continuing to work with the landowner. It would appear that there is a history there that predates our debris removal efforts. I've copied Venetia Lannon with NYSDEC so that she can correct me if I'm mistaken in any way on that.

Give me a call if you have any further questions.

Jamie

James T. Robb
NEPA Compliance Officer
US Army Corps of Engineers
New York Recovery Field Office
James.T.Robb@usace.army.mil
Cell: 916-397-9421

-----Original Message-----

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Tuesday, April 23, 2013 3:11 PM
To: Hyde, Brittney R
Cc: Steve Zahn; Venetia Lannon; Moore, James T NAN02; Robb, James T SPK
Subject: RE: NYC_PPDR LeHavre wetland (UNCLASSIFIED)

Brittney,
Thank you again for taking time today to look at the Le Harve site. I just wanted to recap the field observations and where we are in terms of next steps. It appeared that the vegetation in the wetland areas up through the sand areas are returning naturally, but an area above the sand where vegetation was removed, exposing the soil, needs to be replanted in order to stabilize the area against erosion. Margaret Costello from Le Harve indicated that they were planning on seeding that area with grass seed. If their intention is to reseed the area quickly, without the addition of more fill, or regrading the existing soils, that would resolve any outstanding issues. Please let me know if you can confirm with Margaret whether they are moving quickly to do the seeding, or if they need assistance. Even though no enforcement action has been taken on this activity, the Le Harve management feels as though they are being unfairly targeted by EPA and DEC, so it was agreed that any future site visits would be coordinated through Ms. Costello. Hopefully goose nesting season will be over if we need to return for another site visit.
Regards,
Susan

Susan Maresca | Marine Resources Program Manager
New York State Department of Environmental Conservation, Region 2 - New York City

47-40 21st Street, Long Island City, NY 11101

P: 718-482-6461 | F: 718-482-4502 | simaresc@gw.dec.state.ny.us
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NYSDEC website <<http://www.dec.ny.gov/>> | Directions to Region 2
<<http://www.dec.ny.gov/about/547.html>>

From: Lantner, Murray [<mailto:Lantner.Murray@epa.gov>]
Sent: Thursday, May 02, 2013 11:15 AM
To: Robb, James T SPK
Subject: RE: Tidal Wetlands - 168-68 9th Avenue, Whitestone, New York 11357

Dear Mr. Robb:

Please see email below, to date I have not received a response from you.

Also did NYSDEC approve the NOI and issue the Permit to the USACE?

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
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(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: Lantner, Murray
Sent: Monday, April 01, 2013 12:37 PM
To: 'James.T.Robb@usace.army.mil'
Cc: McKenna, Douglas
Subject: Tidal Wetlands - 168-68 9th Avenue, Whitestone, New York 11357

Dear Mr. Robb:

We have received a complaint about the excavation/grading/soil disturbance activity of the coastal property of LeHavre Owners Corp. between 9th and 12th Avenues, Whitestone, N.Y. conducted on 02/28/13 and 03/01/13.

- (1) Soil disturbance resulting from the excavation and grading between 9th and 12th Avenues was conducted from the coastal waterline up to the permanent structures of this facility. This includes the tidal coastal wetlands, wetlands, the regulated wetlands buffer/boundary layer and adjacent areas.
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We have asked the New York State Dept. of Environmental Conservation (DEC) for information on the site and they have indicated that the work was performed by the USACE under the attached DEC Permit. Do you have documentation on this specific site or boundaries (and acreage) of the work that was conducted under the DEC Permit as well as other sites in Queens where this type of activity may have occurred? Additionally, do you know why the work at this site went beyond debris removal in the wetland and resulted in the clearing of all vegetation (as shown in the attached photos)?

Murray Lantner, P.E., Environmental Engineer
Acting Chief, Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)

Caveats: NONE

McKenna, Douglas

From: Lantner, Murray
Sent: Thursday, May 02, 2013 2:24 PM
To: Montella, Daniel; McKenna, Douglas
Subject: FW: Tidal Wetlands - 168-68 9th Avenue, Whitestone, New York 11357
Attachments: image2013-04-01-085516.pdf

Dan/Doug:

I'm writing up the inspection report for the Le Havre site.

I have the NOI for GP-2-12-002 Hurricane Sandy NYC General Permit but wanted to see if you had an approval of the NOI by NYSDEC that actually granted the USACE coverage under the this Permit.

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McKenna, Douglas

From: Lantner, Murray
Sent: Tuesday, April 09, 2013 10:09 AM
To: Montella, Daniel; McKenna, Douglas
Cc: Pohle, David
Subject: RE: FW: Excavation work along water in Queens

Can you put a lawn in the a state buffer?

Murray Lantner, P.E., Environmental Engineer
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(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: Montella, Daniel
Sent: Tuesday, April 09, 2013 8:38 AM
To: McKenna, Douglas
Cc: Pohle, David; Lantner, Murray
Subject: FW: FW: Excavation work along water in Queens

DEC hasn't approved anything and said they will inspect this week. I forwarded Phil's photos from yesterday. Odds are they are planning to put in a lawn. I guess I won't be shocked if half of it is covered by sod by noon today. But I think most of the site is regulated state buffer and not federal tidal waters

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Tuesday, April 09, 2013 7:39 AM
To: Montella, Daniel
Subject: RE: FW: Excavation work along water in Queens

Dan,
We are still working with the ACOE, we were planning to meet out at the site shortly to develop the plan. One of my staff was out there last week to take pictures and musty have missed the new work, but I will have an ECO stop by this week to keep an eye on the site while we are working towards restoration. Once we have a plan, I will definitely share it with you.
Thanks,
Susan

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 4/8/2013 9:46 AM >>>
Hello, some activity's been reported at this location (land prep, sprinkler system). is there a revegetation plan underway? If there is and you can share the details of what's required, I'd appreciate it.

thanks

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Wednesday, March 06, 2013 11:32 AM
To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
Subject: Re: FW: Excavation work along water in Queens

Dan,
Loss of wetland vegetation should not have occurred during this clean-up. One of our biologists is calculating the wetland vegetation lost due to excavation, and we are planning to work cooperatively with the ACOE to get the area replanted with appropriate wetland vegetation this growing season.
Regards,
Susan

Susan Maresca | Marine Resources Program Manager
New York State Department of Environmental Conservation, Region 2 - New York City
47-40 21st Street, Long Island City, NY 11101
P: 718-482-6461 | **F:** 718-482-4502 | simaresc@gw.dec.state.ny.us

[NYSDEC website](#) | [Directions to Region 2](#)

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 3/6/2013 10:06 AM >>>

More on this, a local resident sent the below report. EnCon officers visited the site. Also, photos taken last week after the work was done are attached. Could this have been permitted?

thanks

- Dan

Below, please find additional information pertaining to the recent "clean-up" project of the tidal coastal wetlands located on the Le Havre complex property:

General Information: The property is managed on site by the Le Havre Owners Corp., 168-68 9th Avenue, Whitestone, N.Y. 11357 ("the facility"). The facility consists of thirty two (32) residential co-op buildings located on the coastline of the Upper East River and the Long Island Sound.. The facility board president is Stanley Greenburg and the facility manager is Margaret Costello. The office phone number is 718 767-7400, fax 718 746-6548.

Past Compliance History: On at least two (2) occasions, the facility has been cited for infractions/impingement of the tidal coastal wetlands by the NYSDEC which resulted in Consent Orders and penalties.

Recent Regulatory History: In early January, a site inspection of the wetlands was conducted by the NYCDEC Environmental Police due to public concern that an impending cleanup of the wetlands may not be properly conducted as required since it was common knowledge that a beach was preferred over the wetlands. NYSDEC Officer Doreen Lum inspected the facility and meet with management. The officer related that in order to proceed with a wetland clean-up, a permit must be obtained which describes the project (including but not limited to excavating, grading, surge protection etc...). Also, a soil erosion permit is required.

Facility Clean-up: On Thursday morning, February 28, 2013, three(3) Bobcat type units and two (2) dump trucks (Ricochelli logo) proceeded to "clean-up" the wetlands. (This action was unannounced to the shareholders of the facility). In response, the NYSDEC Environmental police were summoned to evaluate this action. Officer Lum was not available, The NYSDEC Environmental Police sent Officer Shay Matte (sp.) to investigate. That day, in the afternoon, I spoke to Officer Matte. He related to me that the management office did not have any copies on site of a permit/applications to perform this work. He stated that he would call the DEC office in Albany, N.Y. to retrieve these documents via a fax. I requested that he send me copies by fax. He agreed and took my fax number. To date, no reply. Additionally, he stated that the clean-up was proceeding since it was being conducted "solely" under the supervision of the Corps of Engineers in conjunction with Fema??????

The "clean-up" continued that day and concluded on March 1, 2013.

From: Montella, Daniel
Sent: Monday, March 04, 2013 11:59 AM
To: 'smzahn@gw.dec.state.ny.us'
Cc: Pohle, David
Subject: Excavation work along water in Queens

Hello, I have a report of unauthorized work in and around the shoreline at 168-68 9th Ave, Whitestone, NY, 11357. Allegedly, the Lehavre condo association is using mechanized equipment (bobcats) to excavate phrag & spartina in an effort to create a vegetation-free beach area, perhaps under the guise of "Sandy storm recovery work." There are DEC mapped tidal mudflats along this area, but no NWI wetlands areas. Might this have been authorized or reviewed by DEC?

Thanks

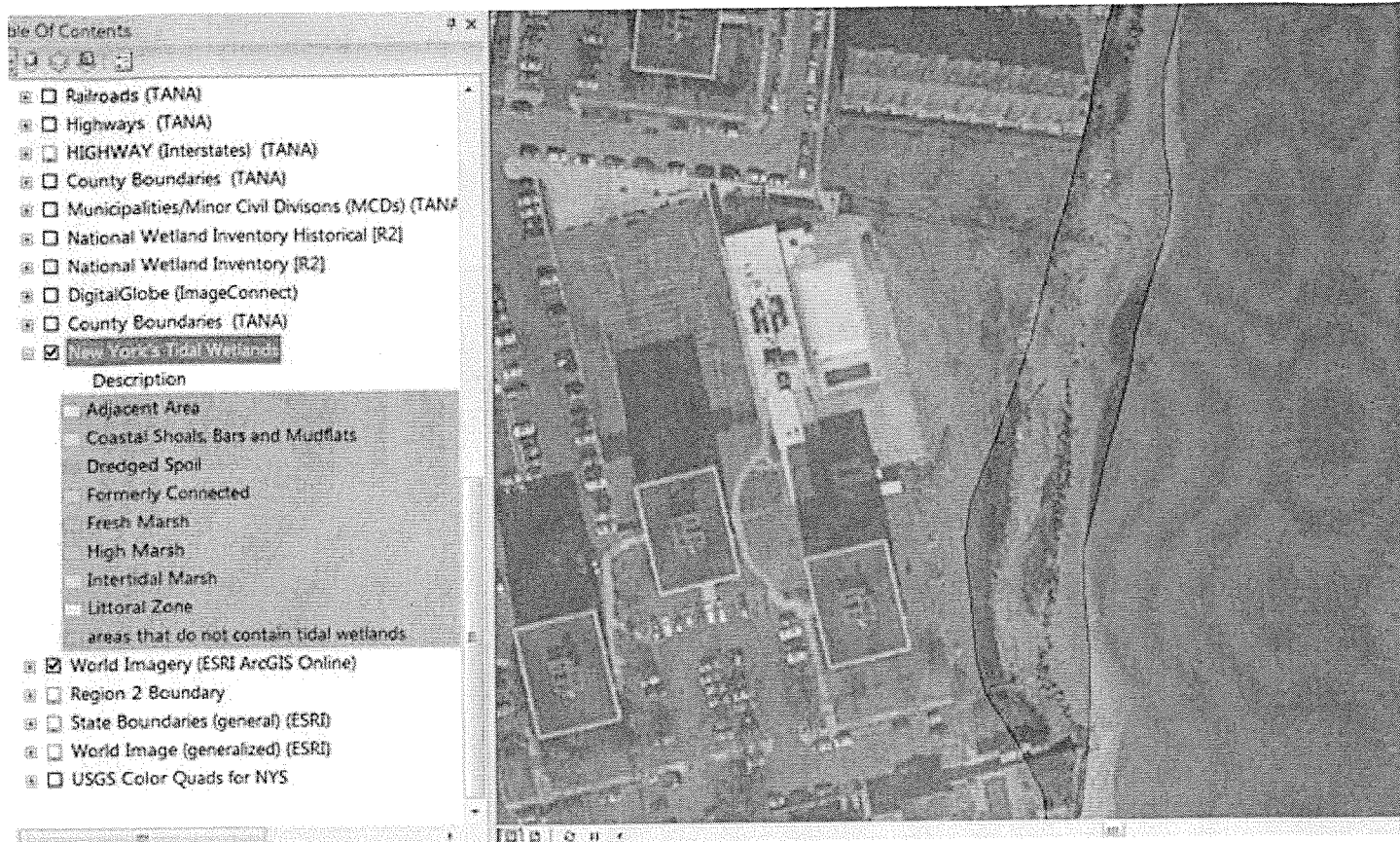
- Dan

[illegible]

Daniel Montella
Chief, Wetlands Protection Section
Watershed Management Branch
US Environmental Protection Agency, Region 2
290 Broadway
NY, NY 10007
212-637-3801
212-637-3889 (fax)

[illegible]





McKenna, Douglas

From: Lantner, Murray
Sent: Monday, April 08, 2013 3:03 PM
To: McKenna, Douglas
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Doug the ACOE has not responded to me.

Following the inspection I'm guessing we will have to send the ACOE a Request for Information (Do we need to go thru Kathleen Mallone to do that?)

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: McKenna, Douglas
Sent: Thursday, April 04, 2013 2:02 PM
To: Selvin Southwell; Robert Elburn
Cc: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Selvin please see the attached newsletter that my staff person gave me. It certainly appears like they intend to plant grass when they talk about a sprinkler system. Twice in the past DEC has cited them for Wetlands issues in 1999 DEC File number – R2-0096-98-08 and in 2006 - DEC File number R2-20050928-339, so it looks like they have done this before.

Murray have you heard back from the ACOE yet? Please send them a copy of the Newsletter.

Thanks Doug

From: McKenna, Douglas
Sent: Monday, April 01, 2013 12:28 PM
To: 'Selvin Southwell'; Robert Elburn
Cc: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Thank you Selvin, they sure seemed to take more than the permit seemed to give.

We will look into it further.

Doug

From: Selvin Southwell [<mailto:stsouthw@gw.dec.state.ny.us>]
Sent: Monday, April 01, 2013 11:28 AM
To: McKenna, Douglas; Robert Elburn
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Doug,

As it turns out, no NOV was issued to the site. The work at the site was performed by **USACOE** under a DEC Hurricane Sandy General Permit (see attached). This work was characterized as removal of storm debris within private properties from areas within 100 feet of wetlands and waterways.

I spoke to our Tidal Wetlands staff (Susan Maresca) this morning and she informed me that Dan Montella of EPA has been informed that DEC will be working cooperatively with USACOE to get a restoration project completed.

Selvin



Selvin Trevor Southwell, P.E. | Deputy Regional Water Engineer
Division of Water
New York State Department of Environmental Conservation
47-40 21st Street Long Island City, NY 11101
☎: 718.482-4881 | 📠: 718.482-6516
[website](#) | [directions](#) | [email](#) |

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>>> "McKenna, Douglas" <McKenna.Douglas@epa.gov> 3/28/2013 8:39 AM >>>

Bob, any answer on this? I'm copying Selvin in case you are out on Holiday.

Thanks Doug

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:38 AM
To: 'rhelburn@gw.dec.state.ny.us'
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob I missed a couple of letters in your email address thanks Doug

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:31 AM
To: 'rhelburn@gw.dec.state'
Cc: Montella, Daniel; Lantner, Murray
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob, Phil Greco is an engineer in My Branch who lives in this co-op complex. Some entity cleared all vegetation between the complex and the coastline between 9th and 12th ave. in Whitestone.

Does DEC have any information on this? Who did it, why and under what permitting authority?

Thanks Doug

From: Greco, Philip

Sent: Wednesday, March 20, 2013 11:55 AM

To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil

Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Note: You will receive several emails, with a total of 21 pictures. Attached are photographs of the property that is the resultant of the activity. Also, photos numbered 2510711.jpg and 2510711 2.jpg were taken prior - the summer of 2012.

From: Greco, Philip

Sent: Wednesday, March 20, 2013 11:15 AM

Subject: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

EPA's Water Compliance Branch ("WCB") is presently reviewing data/information pertaining to the excavation/grading/soil disturbance activity of the coastal property of LeHavre Owners Corp. between 9th and 12th Avenues, Whitestone, N.Y. conducted on 02/28/13 and 03/01/13. Specifically, this activity may constitute a Clean Water Act ("CWA") violation pursuant to 40 CFR Sections 122.26(a)(1)(ii), 122.26(b)(14), 122.26(b)(14)(x) and 122.26(b)(15)(i).

Initial information/data available to WCB is summarized below:

- (1) Soil disturbance resulting from the excavation and grading between 9th and 12th Avenues was conducted from the coastal waterline up to the permanent structures of this facility. This includes the tidal coastal wetlands, wetlands, the regulated wetlands buffer/boundary layer and adjacent areas.
- (2) The alteration activity was conducted by industrial mechanized equipment.
- (3) Virtually all existing vegetation was removed/excavated from the site as described in (1) above.
- (4) Prior to this activity (02/28/13-03/01/13), a site visit in early January 2013 was conducted by a NYSDEC ECO (Officer Doreen Lum). Management was instructed, at this time, that prior to any planned activity on this property applications for the required permits must be submitted. This included, but not limited to, the Tidal Wetland Regulations (ECL Sections 1-0101, 3-0301, 25-0302, 6 NYCRR Part 661 and Coastal Erosion Regulations, ECL Section 34, 6 NYCRR Part 505.
- (5) To date, records review indicate that management did not submit any applications for the planned activity. It is presently assumed that this was an unpermitted, unauthorized activity.

As previously stated, WCB is presently investigating the activity as to its merits pertaining to compliance. If you have any information pertaining to this case to help in WCB's assessment, it is respectfully requested that it be submitted via e-mail to greco.philip@epa.gov

Again, thank you for your cooperation in this matter.

Respectfully,

Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA - Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: Lantner, Murray
Sent: Monday, April 08, 2013 9:22 AM
To: McKenna, Douglas
Subject: RE: FW: Excavation work along water in Queens

So they already put in the sprinkler system. I guess the area of the disturbance will be easier to measure now. I plan to go there on Thursday afternoon.

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
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New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)

From: McKenna, Douglas
Sent: Monday, April 08, 2013 8:37 AM
To: Montella, Daniel
Cc: Lantner, Murray; Pohle, David
Subject: RE: FW: Excavation work along water in Queens

Hey Dan apparently they installed a sprinkler system where the wet land vegetation was removed I am not sure that the appropriate wetland vegetation DEC expects to be planted really needs a sprinkler system so maybe they plan to plant grass and have a lawn.

Can you please give your DEC contacts a heads up, I have let mine know.

Doug

From: Montella, Daniel
Sent: Thursday, March 28, 2013 9:00 AM
To: McKenna, Douglas
Cc: Lantner, Murray; Pohle, David
Subject: RE: FW: Excavation work along water in Queens

That there may be a Corps violation. Under fed rules, one can clear vegetation in wetlands or adjacent uplands w/o a permit, but if you disturb the soil below the spring high tide elevation, then you need a permit. DEC has a better handle on the entire thing since they regulate all work, including vegetation clearing, up to within 300 feet of tidal waters or wetlands. Corps will most likely do nothing, just sit back & watch, & hope that DEC's required corrective measures will satisfy whatever federal issues may exist.

- Dan

From: McKenna, Douglas
Sent: Thursday, March 28, 2013 8:36 AM
To: Montella, Daniel

Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

Sorry I missed this one, what does that mean.

From: Montella, Daniel
Sent: Monday, March 25, 2013 10:12 AM
To: McKenna, Douglas
Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

I'm not sure, the Corps regulatory office said they would look into what involvement they may have had. Whatever was done wasn't done "by the book."

- Dan

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Cc: Lantner, Murray
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Thanks Dan!!!

Was it the ACOE's construction project or did a private entity do it?

How does that even happen?

Doug

From: Montella, Daniel
Sent: Monday, March 25, 2013 10:04 AM
To: McKenna, Douglas
Cc: Lantner, Murray
Subject: FW: FW: Excavation work along water in Queens

FYI. DEC plans to have the area restored...

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Wednesday, March 06, 2013 11:32 AM
To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
Subject: Re: FW: Excavation work along water in Queens

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Susan

Susan Maresca | Marine Resources Program Manager

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NYSDEC website | Directions to Region 2

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- Dan

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The "clean-up" continued that day and concluded on March 1, 2013.

The results of this clean-up have been memorialized with photographs of which you will receive on Wednesday. It appears that this beautiful ecosystem has been converted to a beach and has been decimated through the use of poor planning, improper procedures or ill intent. Remediation is most likely required to bring back this ecosystem.

From: Montella, Daniel

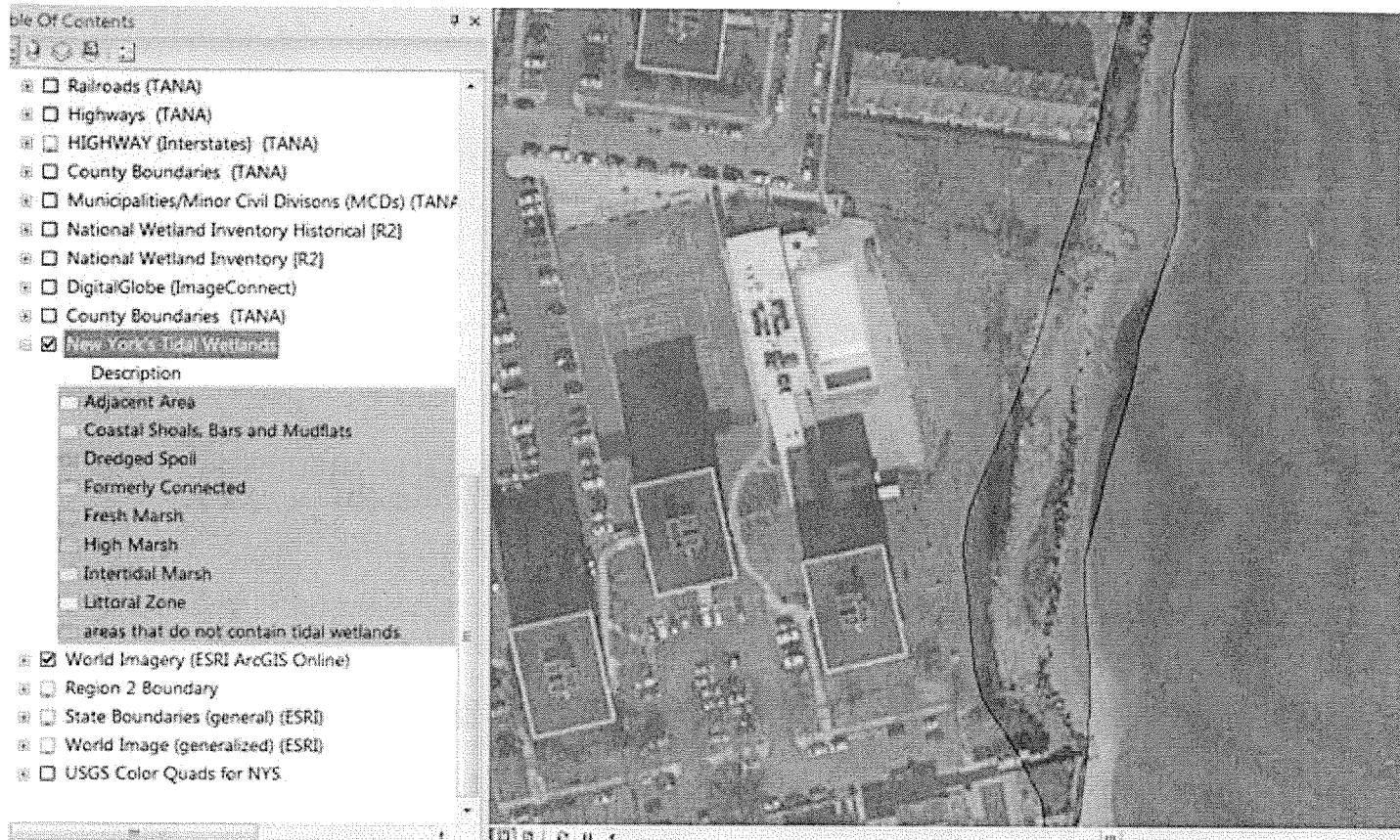
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Attachments: image2013-04-01-085516.pdf; 0304131002.jpg; 0304131004.jpg

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EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)

McKenna, Douglas

From: Lantner, Murray
Sent: Thursday, March 28, 2013 11:57 AM
To: McKenna, Douglas
Subject: RE: FW: Excavation work along water in Queens

Doug

In 2 weeks, I plan on going to this site with a GPS and a measuring wheel and talk to the facility to determine how much land was disturbed.

Murray Lantner, P.E., Environmental Engineer
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Susan Maresca | Marine Resources Program Manager
New York State Department of Environmental Conservation, Region 2 - New York City
47-40 21st Street, Long Island City, NY 11101
P: 718-482-6461 | **F:** 718-482-4502 | simaresc@gw.dec.state.ny.us

[NYSDEC website](#) | [Directions to Region 2](#)

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 3/6/2013 10:06 AM >>>

More on this, a local resident sent the below report. EnCon officers visited the site. Also, photos taken last week after the work was done are attached. Could this have been permitted?

thanks

- Dan

Below, please find additional information pertaining to the recent "clean-up" project of the tidal coastal wetlands located on the Le Havre complex property:

General Information: The property is managed on site by the Le Havre Owners Corp., 168-68 9th Avenue, Whitestone, N.Y. 11357 ("the facility"). The facility consists of thirty two (32) residential co-op buildings located on the coastline of the Upper East River and the Long Island Sound.. The facility board president is Stanley Greenburg and the facility manager is Margaret Costello. The office phone number is 718 767-7400, fax 718 746-6548.

Past Compliance History: On at least two (2) occasions, the facility has been cited for infractions/impingement of the tidal coastal wetlands by the NYSDEC which resulted in Consent Orders and penalties.

Recent Regulatory History: In early January, a site inspection of the wetlands was conducted by the NYCDEC Environmental Police due to public concern that an impending cleanup of the wetlands may not be properly conducted as required since it was common knowledge that a beach was preferred over the wetlands. NYSDEC Officer Doreen Lum inspected the facility and meet with management. The officer related that in order to proceed with a wetland clean-

up, a permit must be obtained which describes the project (including but not limited to excavating, grading, surge protection etc...). Also, a soil erosion permit is required.

Facility Clean-up: On Thursday morning, February 28, 2013, three(3) Bobcat type units and two (2) dump trucks (Ricochelli logo) proceeded to "clean-up" the wetlands. (This action was unannounced to the shareholders of the facility). In response, the NYSDEC Environmental police were summoned to evaluate this action. Officer Lum was not available, The NYSDEC Environmental Police sent Officer Shay Matte (sp.) to investigate. That day, in the afternoon, I spoke to Officer Matte. He related to me that the management office did not have any copies on site of a permit/applications to perform this work. He stated that he would call the DEC office in Albany, N.Y. to retrieve these documents via a fax. I requested that he send me copies by fax. He agreed and took my fax number. To date, no reply. Additionally, he stated that the clean-up was proceeding since it was being conducted "solely" under the supervision of the Corps of Engineers in conjunction with Fema??????

The "clean-up" continued that day and concluded on March 1, 2013.

The results of this clean-up have been memorialized with photographs of which you will receive on Wednesday. It appears that this beautiful ecosystem has been converted to a beach and has been decimated through the use of poor planning, improper procedures or ill intent. Remediation is most likely required to bring back this ecosystem.

From: Montella, Daniel
Sent: Monday, March 04, 2013 11:59 AM
To: 'smzahn@gw.dec.state.ny.us'
Cc: Pohle, David
Subject: Excavation work along water in Queens

Hello, I have a report of unauthorized work in and around the shoreline at 168-68 9th Ave, Whitestone, NY, 11357. Allegedly, the Lehavre condo association is using mechanized equipment (bobcats) to excavate phrag & spartina in an effort to create a vegetation-free beach area, perhaps under the guise of "Sandy storm recovery work." There are DEC mapped tidal mudflats along this area, but no NWI wetlands areas. Might this have been authorized or reviewed by DEC?

Thanks

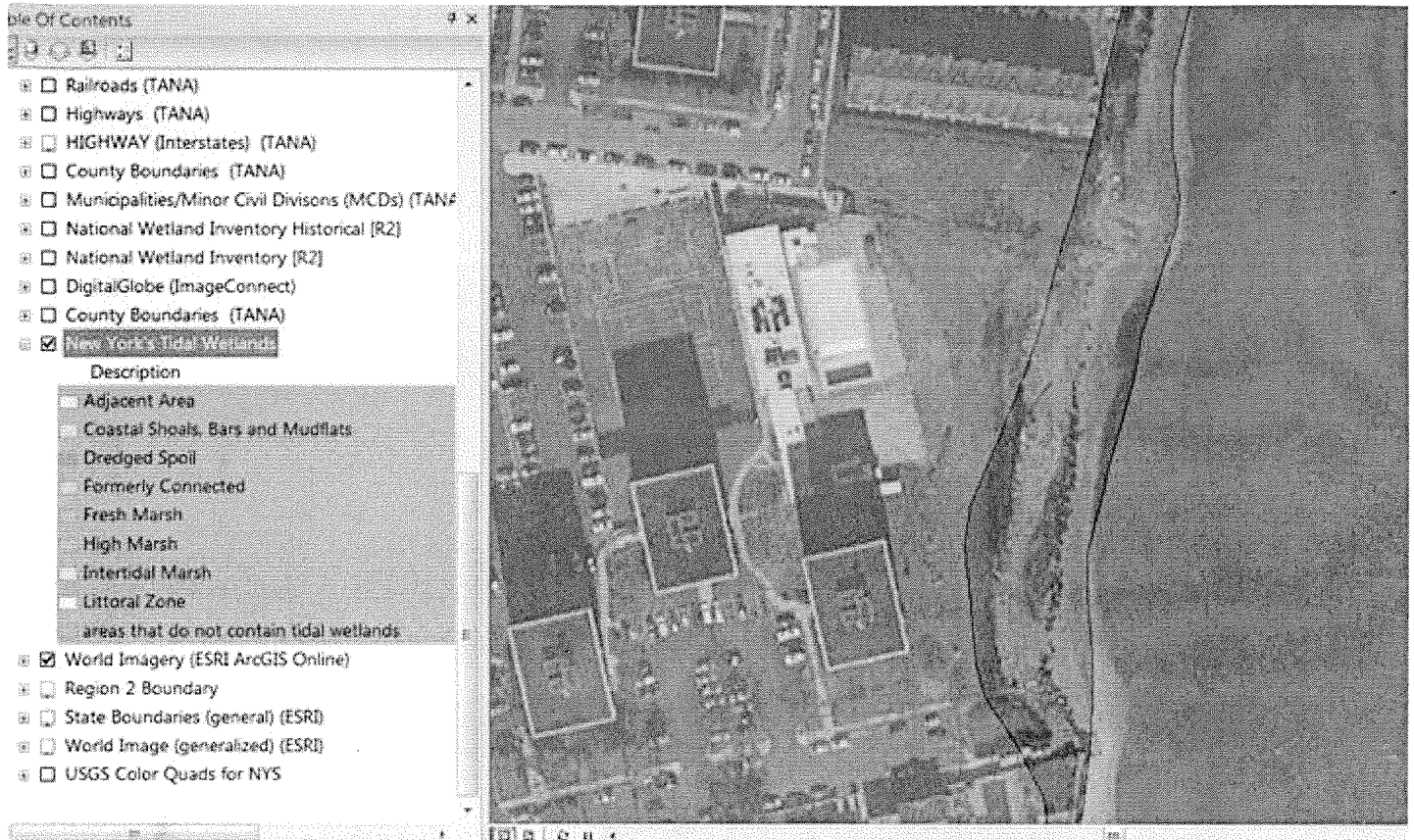
- Dan

[illegible]

Daniel Montella
Chief, Wetlands Protection Section
Watershed Management Branch
US Environmental Protection Agency, Region 2
290 Broadway
NY, NY 10007
212-637-3801
212-637-3889 (fax)

[illegible]





McKenna, Douglas

From: Lantner, Murray
Sent: Monday, March 25, 2013 11:45 AM
To: McKenna, Douglas
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

I'm happy to inspect the site to determine if it is 1 acre or greater and determine whether a construction general permit was necessary.

I would like to go with one of the interns within 2 weeks.

Murray Lantner, P.E., Environmental Engineer
Acting Chief, Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)

From: McKenna, Douglas
Sent: Monday, March 25, 2013 11:17 AM
To: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

I'd like to know what you think but I'd also like to hear back from DEC.

Thanks

From: Lantner, Murray
Sent: Monday, March 25, 2013 10:19 AM
To: McKenna, Douglas
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Doug, do you want me to conduct a construction stormwater inspection there also? To see if they disturbed more than an acre?

Murray Lantner, P.E., Environmental Engineer
Acting Chief, Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:32 AM
To: rhelburn@gw.dec.state
Cc: Montella, Daniel; Lantner, Murray
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob, Phil Greco is an engineer in My Branch who lives in this co-op complex. Some entity cleared all vegetation between the complex and the coastline between 9th and 12th ave. in Whitestone.

Does DEC have any information on this? Who did it, why and under what permitting authority?

Thanks Doug

From: Greco, Philip
Sent: Wednesday, March 20, 2013 11:55 AM
To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Note: You will receive several emails, with a total of 21 pictures. Attached are photographs of the property that is the resultant of the activity. Also, photos numbered 2510711.jpg and 2510711 2.jpg were taken prior – the summer of 2012.

From: Greco, Philip
Sent: Wednesday, March 20, 2013 11:15 AM
Subject: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

EPA's Water Compliance Branch ("WCB") is presently reviewing data/information pertaining to the excavation/grading/soil disturbance activity of the coastal property of LeHavre Owners Corp. between 9th and 12th Avenues, Whitestone, N.Y. conducted on 02/28/13 and 03/01/13. Specifically, this activity may constitute a Clean Water Act ("CWA") violation pursuant to 40 CFR Sections 122.26(a)(1)(ii), 122.26(b)(14), 122.26(b)(14)(x) and 122.26(b)(15)(i).

Initial information/data available to WCB is summarized below:

- (1) Soil disturbance resulting from the excavation and grading between 9th and 12th Avenues was conducted from the coastal waterline up to the permanent structures of this facility. This includes the tidal coastal wetlands, wetlands, the regulated wetlands buffer/boundary layer and adjacent areas.
- (2) The alteration activity was conducted by industrial mechanized equipment.
- (3) Virtually all existing vegetation was removed/excavated from the site as described in (1) above.
- (4) Prior to this activity (02/28/13-03/01/13), a site visit in early January 2013 was conducted by a NYSDEC ECO (Officer Doreen Lum). Management was instructed, at this time, that prior to any planned activity on this property applications for the required permits must be submitted. This included, but not limited to, the Tidal

Wetland Regulations (ECL Sections 1-0101, 3-0301, 25-0302, 6 NYCRR Part 661 and Coastal Erosion Regulations, ECL Section 34, 6 NYCRR Part 505.

- (5) To date, records review indicate that management did not submit any applications for the planned activity. It is presently assumed that this was an unpermitted, unauthorized activity.

As previously stated, WCB is presently investigating the activity as to its merits pertaining to compliance. If you have any information pertaining to this case to help in WCB's assessment, it is respectfully requested that it be submitted via e-mail to greco.philip@epa.gov

Again, thank you for your cooperation in this matter.

Respectfully,

Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA – Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

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Sent: Wednesday, March 20, 2013 11:55 AM
To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

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Again, thank you for your cooperation in this matter.

Respectfully,

Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA – Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: McKenna, Douglas
Sent: Wednesday, May 22, 2013 11:11 AM
To: Lantner, Murray; Pohle, David
Cc: Balla, Richard; Montella, Daniel; Feinmark, Phyllis
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York (LeHavre)
Attachments: LeHavre.PDF

I am fine with this version thanks Murray and David.

For the Benefit of others I have included Murray's final report. You can share with DEC and USACE if you inquire about the current status.

Doug

From: Lantner, Murray
Sent: Tuesday, May 21, 2013 4:41 PM
To: Pohle, David; McKenna, Douglas
Cc: Balla, Richard; Montella, Daniel; Feinmark, Phyllis
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York (LeHavre)

Doug/Dave I added some more language to the letter to cover the 402 findings.

If possible it may be worth touching base with DEC and USACE to check the current status of the potential 404 issues.

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: Lantner, Murray
Sent: Tuesday, May 21, 2013 4:20 PM
To: Pohle, David; McKenna, Douglas
Cc: Balla, Richard; Montella, Daniel; Feinmark, Phyllis
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York (LeHavre)

Dave do you want to reach out to the NYSDEC and perhaps the USACE so we can get the latest from them on the status of wetlands issues at the site before sending the response. Mainly the status of any restoration activities.

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: Pohle, David
Sent: Tuesday, May 21, 2013 4:09 PM
To: Lantner, Murray; McKenna, Douglas
Cc: Balla, Richard; Montella, Daniel; Feinmark, Phyllis
Subject: FW: (CWA - FY13-106490-3709-CV) Referred to Region - New York (LeHavre)

Doug/Murray:

The wetlands program has received two incoming letters (to RA and Bob Perciasepe), this complaint (below), and an e-mail from Ann Sullivan of Whitestone, NY, regarding the matter at LeHavre coop. We have prepared a short response letter. Please see attached. The single response letter will address all incomings from Professor Sullivan and may also respond to letters received subsequently from other private citizens in this same matter.

Due to your program's involvement we wish to add some more information on your investigation into this matter and provide you as tertiary contact. We will add you to the concurrence on the letter to be signed by Joan. Could you please revise (add to) the attached. A quick response would be much appreciated because this letter is already overdue.

Thanks,

Dave

From: Mieles, Janette
Sent: Tuesday, May 21, 2013 8:54 AM
To: Montella, Daniel; Anderson, Kate
Cc: Pohle, David
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York

Thank you

From: Montella, Daniel
Sent: Tuesday, May 21, 2013 8:49 AM
To: Mieles, Janette; Anderson, Kate
Cc: Pohle, David
Subject: RE: (CWA - FY13-106490-3709-CV) Referred to Region - New York

We already have two pieces of controlled correspondence from Ms Sullivan regarding this matter, so our reply to those will address this referral. We will send you a copy of that response when it goes out.

- Dan

From: mieles.janette@epa.gov [<mailto:mieles.janette@epa.gov>]
Sent: Tuesday, May 21, 2013 8:33 AM
To: Anderson, Kate; Montella, Daniel
Subject: FWD: (CWA - FY13-106490-3709-CV) Referred to Region - New York

05/21/2013

SUBJECT: FWD: (CWA - FY13-106490-3709-CV) Referred to Region - New York
FROM: mieles.janette@epa.gov
TO: Anderson.kate@epa.gov, Montella.Daniel@epa.gov
CC:

-----Original Message-----

5/18/2013 8:30 PM

HQ LEAD NUMBER: FY13-106490-3709-CV

SUBJECT: Referred to Region - New York

FROM: anncsslv@aol.com

TO:

Name: Ann Sullivan

Address: 168-11 12th Avenue

City: Whitestone

State: New York

Zip: 11357

Alleged Violator's Name: THE LEHAVRE OWNERS CORP

Alleged Violator's Address: 168-68 9TH AVENUE

Alleged Violator's City: WHITESTONE

Alleged Violator's State: New York

Alleged Violator's Zip: 11357

Tip or Complaint: I am a resident of the CO-OP Complex, LeHavre on the Water, Whitestone, N.Y., which is owned/operated by LeHavre Owners Corp. (168-68 9TH Avenue), Whitestone, N.Y. Stanley Greenburg, President. On 2/28/13 and 3/1/13, a removal project of debris on the coastline between 9th and 12th Avenues was conducted by the Lehavre Owners Corp. which consisted of a heavily mechanized operation. The removal was conducted from the waterline to the building property. The wetland vegetation was removed from both the areas designated as Federal Tidal and State Wetlands as defined by law. Both the designated wetlands and the adjacent wetland boundary layers were disturbed, vegetation removed, graded and back filled with material from an outside source. The contractor hired by the LeHavre Owners Corp. was Riccelli Enterprises/Trucking. I believe the following violations of the Federal Clean Water Act and the State Environmental Law has occurred: (1) Wetlands were removed improperly via Federal and State Law: (2) Erosion Control and Storm Surge protection was not considered: Back fill was used on both the Federal and State wetlands of undocumented origin. Verification of the back fills quality is required to assess if it is acceptable as

prescribed by law. How do I know that the fill was not contaminated and is toxic to the wildlife, vegetation, aquatic life or even us: (3) Management (LeHavre Owners Corp.) continues to aerate, till and plant "grass" in the wetlands and the adjacent boundary where wetland vegetation once existed. This activity is unpermitted and in violation of wetland laws. I would appreciate your attention to this irresponsible and potentially illegal behavior on our environment.

Violation Still Occurring? Yes

State DEP/DEQ/DEM Notified? No

McKenna, Douglas

From: McKenna, Douglas
Sent: Monday, April 08, 2013 3:42 PM
To: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

I'd say we would if it gets to that point I think we will also have to tell Dore who may want to raise it to Judith.

Thanks

From: Lantner, Murray
Sent: Monday, April 08, 2013 3:03 PM
To: McKenna, Douglas
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Doug the ACOE has not responded to me.

Following the inspection I'm guessing we will have to send the ACOE a Request for Information (Do we need to go thru Kathleen Mallone to do that?)

Murray Lantner, P.E., Environmental Engineer
Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)
Email: Lantner.Murray@epa.gov

From: McKenna, Douglas
Sent: Thursday, April 04, 2013 2:02 PM
To: Selvin Southwell; Robert Elburn
Cc: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Selvin please see the attached newsletter that my staff person gave me. It certainly appears like they intend to plant grass when they talk about a sprinkler system. Twice in the past DEC has cited them for Wetlands issues in 1999 DEC File number – R2-0096-98-08 and in 2006 - DEC File number R2-20050928-339, so it looks like they have done this before.

Murray have you heard back from the ACOE yet? Please send them a copy of the Newsletter.

Thanks Doug

From: McKenna, Douglas
Sent: Monday, April 01, 2013 12:28 PM
To: 'Selvin Southwell'; Robert Elburn
Cc: Lantner, Murray

Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Thank you Selvin, they sure seemed to take more than the permit seemed to give.

We will look into it further.

Doug

From: Selvin Southwell [<mailto:stsouthw@gw.dec.state.ny.us>]

Sent: Monday, April 01, 2013 11:28 AM

To: McKenna, Douglas; Robert Elburn

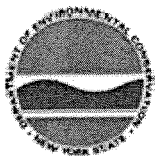
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Doug,

As it turns out, no NOV was issued to the site. The work at the site was performed by **USACOE** under a DEC Hurricane Sandy General Permit (see attached). This work was characterized as removal of storm debris within private properties from areas within 100 feet of wetlands and waterways.

I spoke to our Tidal Wetlands staff (Susan Maresca) this morning and she informed me that Dan Montella of EPA has been informed that DEC will be working cooperatively with USACOE to get a restoration project completed.

Selvin



Selvin Trevor Southwell, P.E. | Deputy Regional Water Engineer

Division of Water

New York State Department of Environmental Conservation

47-40 21st Street Long Island City, NY 11101

☎: 718.482-4881 | 🖨: 718.482-6516

[website](#) | [directions](#) | [email](#) |

Confidentiality Note: This e-mail and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you for your cooperation.

>>> "McKenna, Douglas" <McKenna.Douglas@epa.gov> 3/28/2013 8:39 AM >>>

Bob, any answer on this? I'm copying Selvin in case you are out on Holiday.

Thanks Doug

From: McKenna, Douglas

Sent: Monday, March 25, 2013 8:38 AM

To: 'rhelburn@gw.dec.state.ny.us'

Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob I missed a couple of letters in your email address thanks Doug

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:31 AM
To: 'rhelburn@gw.dec.state'
Cc: Montella, Daniel; Lantner, Murray
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greco.philip@epa.gov

McKenna, Douglas

From: McKenna, Douglas
Sent: Monday, April 08, 2013 8:37 AM
To: Montella, Daniel
Cc: Lantner, Murray; Pohle, David
Subject: RE: FW: Excavation work along water in Queens

Hey Dan apparently they installed a sprinkler system where the wet land vegetation was removed I am not sure that the appropriate wetland vegetation DEC expects to be planted really needs a sprinkler system so maybe they plan to plant grass and have a lawn.

Can you please give your DEC contacts a heads up, I have let mine know.

Doug

From: Montella, Daniel
Sent: Thursday, March 28, 2013 9:00 AM
To: McKenna, Douglas
Cc: Lantner, Murray; Pohle, David
Subject: RE: FW: Excavation work along water in Queens

That there may be a Corps violation. Under fed rules, one can clear vegetation in wetlands or adjacent uplands w/o a permit, but if you disturb the soil below the spring high tide elevation, then you need a permit. DEC has a better handle on the entire thing since they regulate all work, including vegetation clearing, up to within 300 feet of tidal waters or wetlands. Corps will most likely do nothing, just sit back & watch, & hope that DEC's required corrective measures will satisfy whatever federal issues may exist.

- Dan

From: McKenna, Douglas
Sent: Thursday, March 28, 2013 8:36 AM
To: Montella, Daniel
Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

Sorry I missed this one, what does that mean.

From: Montella, Daniel
Sent: Monday, March 25, 2013 10:12 AM
To: McKenna, Douglas
Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

I'm not sure, the Corps regulatory office said they would look into what involvement they may have had. Whatever was done wasn't done "by the book."

- Dan

From: McKenna, Douglas
Sent: Monday, March 25, 2013 10:09 AM

To: Montella, Daniel
Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

Thanks Dan!!!

Was it the ACOE's construction project or did a private entity do it?

How does that even happen?

Doug

From: Montella, Daniel
Sent: Monday, March 25, 2013 10:04 AM
To: McKenna, Douglas
Cc: Lantner, Murray
Subject: FW: FW: Excavation work along water in Queens

FYI. DEC plans to have the area restored...

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Wednesday, March 06, 2013 11:32 AM
To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
Subject: Re: FW: Excavation work along water in Queens

Dan,
Loss of wetland vegetation should not have occurred during this clean-up. One of our biologists is calculating the wetland vegetation lost due to excavation, and we are planning to work cooperatively with the ACOE to get the area replanted with appropriate wetland vegetation this growing season.

Regards,
Susan

Susan Maresca | Marine Resources Program Manager
New York State Department of Environmental Conservation, Region 2 - New York City
47-40 21st Street, Long Island City, NY 11101
P: 718-482-6461 | **F:** 718-482-4502 | simaresc@gw.dec.state.ny.us

[NYSDEC website](#) | [Directions to Region 2](#)

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 3/6/2013 10:06 AM >>>

More on this, a local resident sent the below report. EnCon officers visited the site. Also, photos taken last week after the work was done are attached. Could this have been permitted?

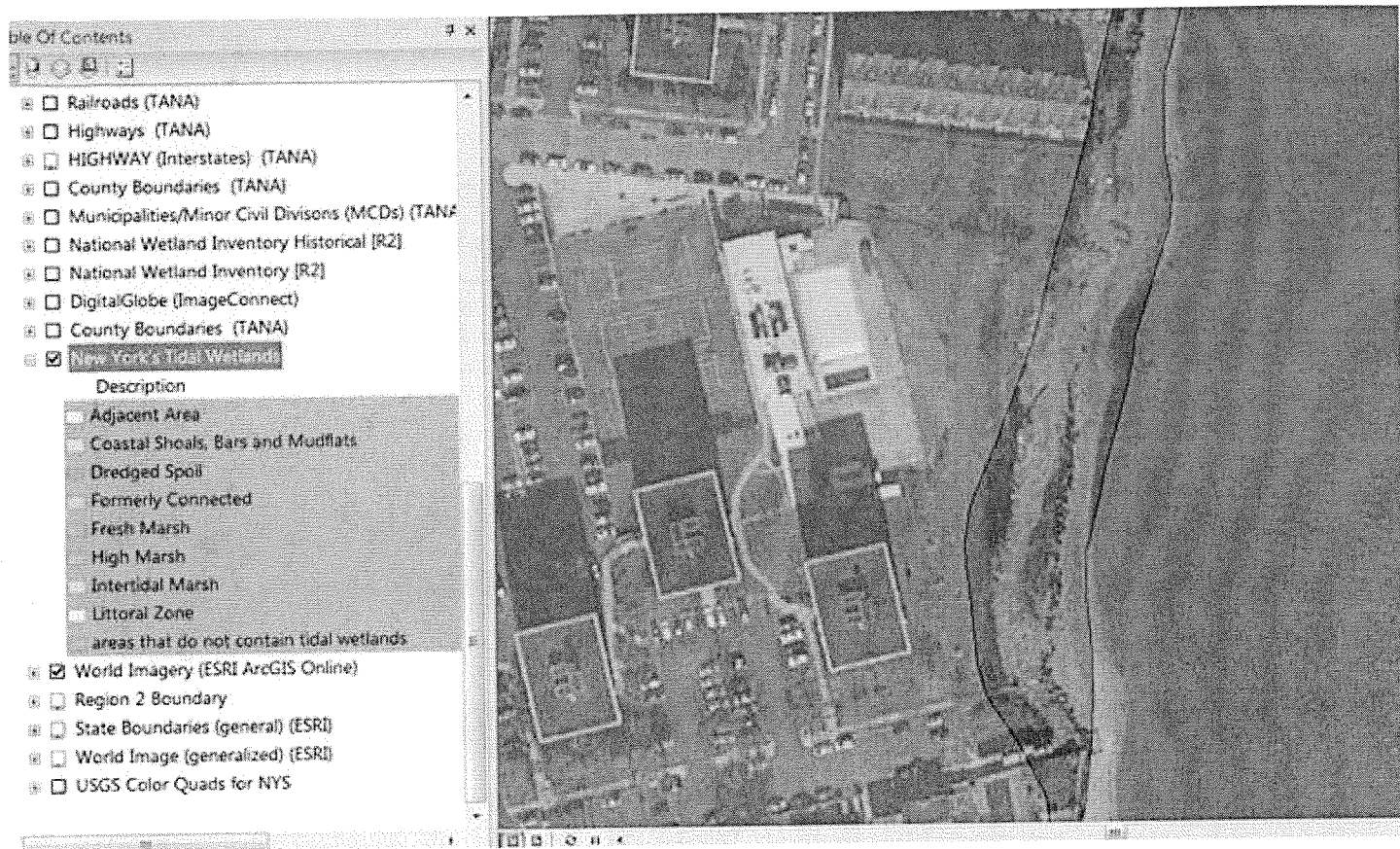
thanks

- Dan

Below, please find additional information pertaining to the recent "clean-up" project of the tidal coastal wetlands located on the Le Havre complex property:

General Information: The property is managed on site by the Le Havre Owners Corp., 168-68 9th Avenue, Whitestone, N.Y. 11357 ("the facility"). The facility consists of thirty two (32) residential co-op buildings located on the coastline of the





McKenna, Douglas

From: McKenna, Douglas
Sent: Thursday, April 04, 2013 2:02 PM
To: 'Selvin Southwell'; 'Robert Elburn'
Cc: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357
Attachments: Lehavre News.pdf

Selvin please see the attached newsletter that my staff person gave me. It certainly appears like they intend to plant grass when they talk about a sprinkler system. Twice in the past DEC has cited them for Wetlands issues in 1999 DEC File number – R2-0096-98-08 and in 2006 - DEC File number R2-20050928-339, so it looks like they have done this before.

Murray have you heard back from the ACOE yet? Please send them a copy of the Newsletter.

Thanks Doug

From: McKenna, Douglas
Sent: Monday, April 01, 2013 12:28 PM
To: 'Selvin Southwell'; Robert Elburn
Cc: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Thank you Selvin, they sure seemed to take more than the permit seemed to give.

We will look into it further.

Doug

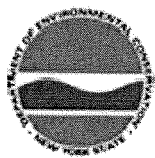
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I spoke to our Tidal Wetlands staff (Susan Maresca) this morning and she informed me that Dan Montella of EPA has been informed that DEC will be working cooperatively with USACOE to get a restoration project completed.

Selvin



Selvin Trevor Southwell, P.E. | Deputy Regional Water Engineer

Division of Water

New York State Department of Environmental Conservation

47-40 21st Street Long Island City, NY 11101

☎: 718.482-4881 | 🖨: 718.482-6516

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>>> "McKenna, Douglas" <McKenna.Douglas@epa.gov> 3/28/2013 8:39 AM >>>

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Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

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Does DEC have any information on this? Who did it, why and under what permitting authority?

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Sent: Wednesday, March 20, 2013 11:55 AM
To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
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Note: You will receive several emails, with a total of 21 pictures. Attached are photographs of the property that is the resultant of the activity. Also, photos numbered 2510711.jpg and 2510711 2.jpg were taken prior - the summer of 2012.

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Again, thank you for your cooperation in this matter.

Respectfully,

Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA - Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: McKenna, Douglas
Sent: Monday, April 01, 2013 12:28 PM
To: 'Selvin Southwell'; Robert Elburn
Cc: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

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We will look into it further.

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Regional Enforcement Specialist
USEPA - Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: McKenna, Douglas
Sent: Monday, April 01, 2013 12:16 PM
To: Lantner, Murray
Subject: 168-68 9th Avenue, Whitestone, New York 11357 - Draft Just wanted to check if ok with you

I modified a bit below I think it can be sent in a clean email with the attachments and a very simple subject line with just the address.

Thanks

From: Lantner, Murray
Sent: Monday, April 01, 2013 12:05 PM
To: McKenna, Douglas
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owner Corporation, 168-68 9th Avenue, Whitestone, New York 11357 - Draft Just wanted to check if ok with you

Doug are you ok with this email?

James.T.Robb@usace.army.mil

Dear Mr. Robb:

We have received a complaint about the excavation/grading/soil disturbance activity of the coastal property of LeHavre Owners Corp. between 9th and 12th Avenues, Whitestone, N.Y. conducted on 02/28/13 and 03/01/13.

- (1) Soil disturbance resulting from the excavation and grading between 9th and 12th Avenues was conducted from the coastal waterline up to the permanent structures of this facility. This includes the tidal coastal wetlands, wetlands, the regulated wetlands buffer/boundary layer and adjacent areas.
- (2) The alteration activity was conducted by industrial mechanized equipment.
- (3) Virtually all existing vegetation was removed/excavated from the site as shown in the above photos.

We have asked the DEC for information on the site and they have indicated that the work was performed by the USACE under the attached DEC Permit. Do you have documentation on this specific site or boundaries of the work that was conducted under the DEC Permit as well as other sites in Queens where this type of activity may have occurred? Additionally, do you know why the work at this site went beyond debris removal in the wetland and resulted in the clearing of all vegetation?

Murray Lantner, P.E., Environmental Engineer
Acting Chief, Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)

From: McKenna, Douglas
Sent: Monday, April 01, 2013 11:36 AM
To: Lantner, Murray
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

From: Selvin Southwell [<mailto:stsouthw@gw.dec.state.ny.us>]
Sent: Monday, April 01, 2013 11:28 AM
To: McKenna, Douglas; Robert Elburn
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Doug,

As it turns out, no NOV was issued to the site. The work at the site was performed by **USACOE** under a DEC Hurricane Sandy General Permit (see attached). This work was characterized as removal of storm debris within private properties from areas within 100 feet of wetlands and waterways.

I spoke to our Tidal Wetlands staff (Susan Maresca) this morning and she informed me that Dan Montella of EPA has been informed that DEC will be working cooperatively with USACOE to get a restoration project completed.

Selvin

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Attachments: image2013-04-01-085516.pdf

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McKenna, Douglas

From: McKenna, Douglas
Sent: Thursday, March 28, 2013 12:48 PM
To: 'Robert Elburn'
Cc: Selvin Southwell; Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

No that is fine, when the staff person gets in you can get me more details and the NOV.

Thanks so much, Doug

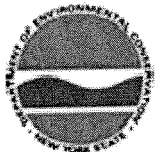
From: Robert Elburn [mailto:rhelburn@gw.dec.state.ny.us]
Sent: Thursday, March 28, 2013 12:24 PM
To: McKenna, Douglas
Cc: Selvin Southwell
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Hi Doug,

You are correct. I was out for the past few days.

The property has not applied for any DEC permits. I am told that the Tidal Wetlands program sent out an NOV for this property. I would like to provide you with the details, however the individual who issued the NOV is out this week. Can this wait until next week or do you need the information sooner?

Best regards,
Bob



Robert Elburn, P.E. | Regional Water Engineer
New York State Department of Environmental Conservation
47-40 21st Street | Long Island City, NY 11101
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As previously stated, WCB is presently investigating the activity as to its merits pertaining to compliance. If you have any information pertaining to this case to help in WCB's assessment, it is respectfully requested that it be submitted via e-mail to greco.philip@epa.gov

Again, thank you for your cooperation in this matter.

Respectfully,

Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA – Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: McKenna, Douglas
Sent: Thursday, March 28, 2013 11:58 AM
To: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

OK that's fine Hopefully by then I will have had a response from DEC.

From: Lantner, Murray
Sent: Thursday, March 28, 2013 11:57 AM
To: McKenna, Douglas
Subject: RE: FW: Excavation work along water in Queens

Doug
In 2 weeks, I plan on going to this site with a GPS and a measuring wheel and talk to the facility to determine how much land was disturbed.

Murray Lantner, P.E., Environmental Engineer
Acting Chief, Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
(212) 637-4211 (Fax)

From: McKenna, Douglas
Sent: Thursday, March 28, 2013 8:36 AM
To: Montella, Daniel
Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

Sorry I missed this one, what does that mean.

From: Montella, Daniel
Sent: Monday, March 25, 2013 10:12 AM
To: McKenna, Douglas
Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

I'm not sure, the Corps regulatory office said they would look into what involvement they may have had. Whatever was done wasn't done "by the book."

- Dan

From: McKenna, Douglas
Sent: Monday, March 25, 2013 10:09 AM
To: Montella, Daniel

Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

Thanks Dan!!!

Was it the ACOE's construction project or did a private entity do it?

How does that even happen?

Doug

From: Montella, Daniel
Sent: Monday, March 25, 2013 10:04 AM
To: McKenna, Douglas
Cc: Lantner, Murray
Subject: FW: FW: Excavation work along water in Queens

FYI. DEC plans to have the area restored...

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Wednesday, March 06, 2013 11:32 AM
To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
Subject: Re: FW: Excavation work along water in Queens

Dan,
Loss of wetland vegetation should not have occurred during this clean-up. One of our biologists is calculating the wetland vegetation lost due to excavation, and we are planning to work cooperatively with the ACOE to get the area replanted with appropriate wetland vegetation this growing season.
Regards,
Susan

Susan Maresca | Marine Resources Program Manager
New York State Department of Environmental Conservation, Region 2 - New York City
47-40 21st Street, Long Island City, NY 11101
P: 718-482-6461 | **F:** 718-482-4502 | simaresc@gw.dec.state.ny.us

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>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 3/6/2013 10:06 AM >>>

More on this, a local resident sent the below report. EnCon officers visited the site. Also, photos taken last week after the work was done are attached. Could this have been permitted?

thanks

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General Information: The property is managed on site by the Le Havre Owners Corp., 168-68 9th Avenue, Whitestone, N.Y. 11357 ("the facility"). The facility consists of thirty two (32) residential co-op buildings located on the coastline of the





McKenna, Douglas

From: McKenna, Douglas
Sent: Thursday, March 28, 2013 8:39 AM
To: 'rhelburn@gw.dec.state.ny.us'
Cc: Selvin Southwell
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob, any answer on this? I'm copying Selvin in case you are out on Holiday.

Thanks Doug

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:38 AM
To: 'rhelburn@gw.dec.state.ny.us'
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob I missed a couple of letters in your email address thanks Doug

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:31 AM
To: 'rhelburn@gw.dec.state'
Cc: Montella, Daniel; Lantner, Murray
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob, Phil Greco is an engineer in My Branch who lives in this co-op complex. Some entity cleared all vegetation between the complex and the coastline between 9th and 12th ave. in Whitestone.

Does DEC have any information on this? Who did it, why and under what permitting authority?

Thanks Doug

From: Greco, Philip
Sent: Wednesday, March 20, 2013 11:55 AM
To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Note: You will receive several emails, with a total of 21 pictures. Attached are photographs of the property that is the resultant of the activity. Also, photos numbered 2510711.jpg and 2510711 2.jpg were taken prior – the summer of 2012.

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Sent: Wednesday, March 20, 2013 11:15 AM

Subject: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

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Regional Enforcement Specialist
USEPA – Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

From: McKenna, Douglas
Sent: Thursday, March 28, 2013 8:35 AM
To: Montella, Daniel
Cc: Lantner, Murray
Subject: RE: FW: Excavation work along water in Queens

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Subject: RE: FW: Excavation work along water in Queens

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FYI. DEC plans to have the area restored...

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
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To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
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Regards,
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Susan Maresca | Marine Resources Program Manager

New York State Department of Environmental Conservation, Region 2 - New York City

47-40 21st Street, Long Island City, NY 11101

P: 718-482-6461 | F: 718-482-4502 | simaresc@gw.dec.state.ny.us

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Past Compliance History: On at least two (2) occasions, the facility has been cited for infractions/impingement of the tidal coastal wetlands by the NYSDEC which resulted in Consent Orders and penalties.

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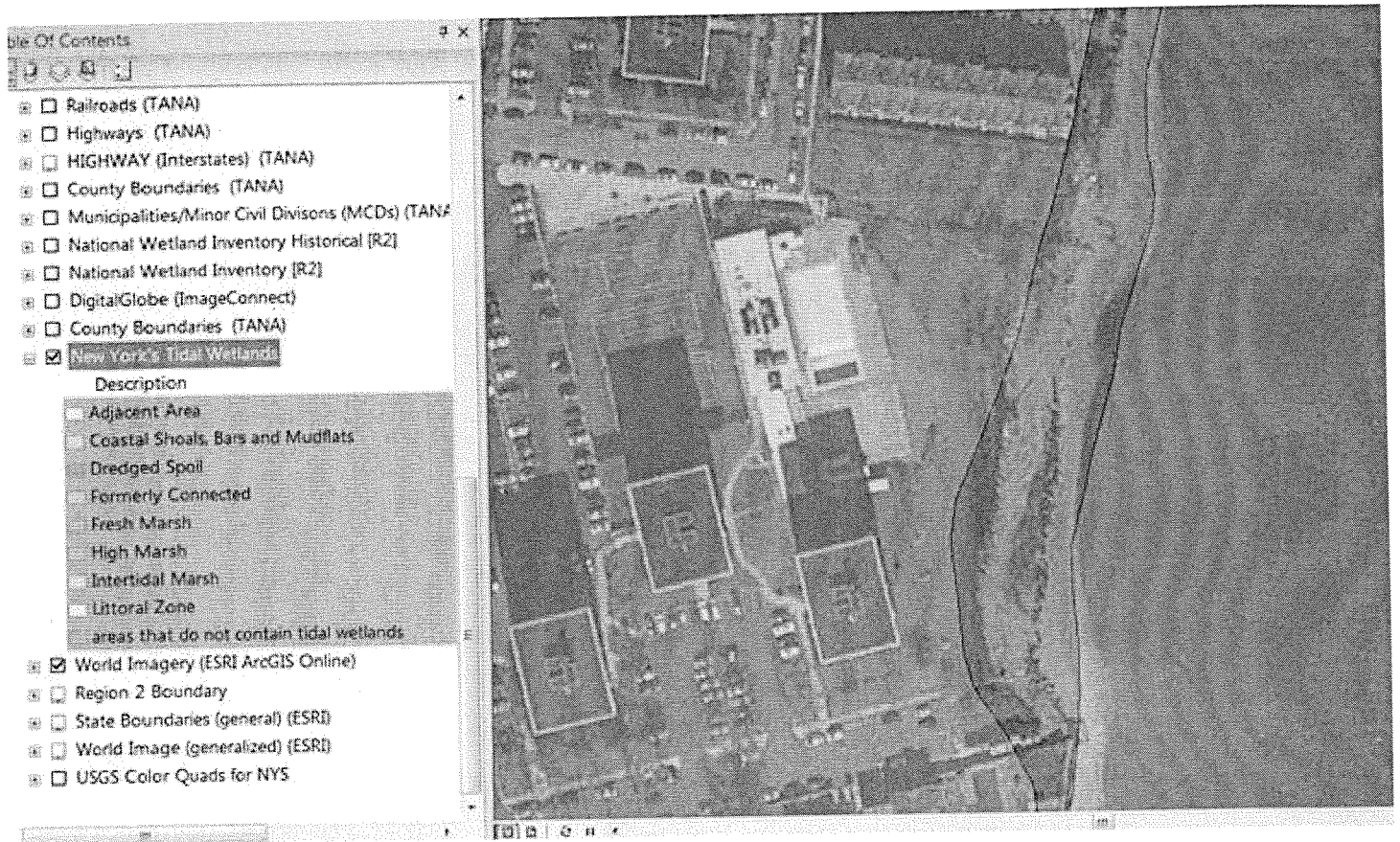
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To: 'smzahn@gw.dec.state.ny.us'



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To: Montella, Daniel
Cc: Lantner, Murray
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Dan what's the story here?

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Cc: Pohle, David

Subject: Excavation work along water in Queens

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recovery work." There are DEC mapped tidal mudflats along this area, but no NWI wetlands areas. Might this have been authorized or reviewed by DEC?

Thanks

- Dan

[illegible]

Daniel Montella
Chief, Wetlands Protection Section
Watershed Management Branch
US Environmental Protection Agency, Region 2
290 Broadway
NY, NY 10007
212-637-3801
212-637-3889 (fax)

[illegible]



McKenna, Douglas

From: McKenna, Douglas
Sent: Monday, March 25, 2013 11:17 AM
To: Lantner, Murray
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

I'd like to know what you think but I'd also like to hear back from DEC.

Thanks

From: Lantner, Murray
Sent: Monday, March 25, 2013 10:19 AM
To: McKenna, Douglas
Subject: RE: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Doug, do you want me to conduct a construction stormwater inspection there also? To see if they disturbed more than an acre?

Murray Lantner, P.E., Environmental Engineer
Acting Chief, Compliance Section
EPA Region 2, Water Compliance Branch
290 Broadway, 20th Floor
New York, NY 10007
(212) 637-3976 (Office)
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Subject: Fw: Excavation work along water in Queens

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Chief, Wetlands Protection Section
Watershed Management Branch
US Environmental Protection Agency, Region 2
290 Broadway
NY, NY 10007
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Sent: Monday, March 25, 2013 10:04 AM
To: McKenna, Douglas
Cc: Lantner, Murray
Subject: FW: FW: Excavation work along water in Queens

FYI. DEC plans to have the area restored...

- Dan

From: Susan Maresca [<mailto:simaresc@gw.dec.state.ny.us>]
Sent: Wednesday, March 06, 2013 11:32 AM
To: Montella, Daniel; Steve Zahn
Cc: Pohle, David
Subject: Re: FW: Excavation work along water in Queens

Dan,
Loss of wetland vegetation should not have occurred during this clean-up. One of our biologists is calculating the wetland vegetation lost due to excavation, and we are planning to work cooperatively with the ACOE to get the area replanted with appropriate wetland vegetation this growing season.
Regards,
Susan

Susan Maresca | Marine Resources Program Manager
New York State Department of Environmental Conservation, Region 2 - New York City
47-40 21st Street, Long Island City, NY 11101
P: 718-482-6461 | **F:** 718-482-4502 | simaresc@gw.dec.state.ny.us

[NYSDEC website](#) | [Directions to Region 2](#)

>>> "Montella, Daniel" <Montella.Daniel@epa.gov> 3/6/2013 10:06 AM >>>

More on this, a local resident sent the below report. EnCon officers visited the site. Also, photos taken last week after the work was done are attached. Could this have been permitted?

thanks

- Dan

General Information: The property is managed on site by the Le Havre Owners Corp., 168-68 9th Avenue, Whitestone, N.Y. 11357 ("the facility"). The facility consists of thirty two (32) residential co-op buildings located on the coastline of the Upper East River and the Long Island Sound.. The facility board president is Stanley Greenburg and the facility manager is Margaret Costello. The office phone number is 718 767-7400, fax 718 746-6548.

Recent Regulatory History: In early January, a site inspection of the wetlands was conducted by the NYCDEC Environmental Police due to public concern that an impending cleanup of the wetlands may not be properly conducted as required since it was common knowledge that a beach was preferred over the wetlands. NYSDEC Officer Doreen Lum inspected the facility and meet with management. The officer related that in order to proceed with a wetland clean-up, a permit must be obtained which describes the project (including but not limited to excavating, grading, surge protection etc...). Also, a soil erosion permit is required.

The "clean-up" continued that day and concluded on March 1, 2013.

The results of this clean-up have been memorialized with photographs of which you will receive on Wednesday. It appears that this beautiful ecosystem has been converted to a beach and has been decimated through the use of poor planning, improper procedures or ill intent. Remediation is most likely required to bring back this ecosystem.

From: Montella, Daniel
Sent: Monday, March 04, 2013 11:59 AM
To: 'smzahn@gw.dec.state.ny.us'
Cc: Pohle, David
Subject: Excavation work along water in Queens

Hello, I have a report of unauthorized work in and around the shoreline at 168-68 9th Ave, Whitestone, NY, 11357. Allegedly, the Lehavre condo association is using mechanized equipment (bobcats) to excavate phrag & spartina in an effort to create a vegetation-free beach area, perhaps under the guise of "Sandy storm recovery work." There are DEC mapped tidal mudflats along this area, but no NWI wetlands areas. Might this have been authorized or reviewed by DEC?

- Dan

Daniel Montella
Chief, Wetlands Protection Section
Watershed Management Branch
US Environmental Protection Agency, Region 2
290 Broadway
NY, NY 10007

[illegible]



McKenna, Douglas

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:38 AM
To: 'rhelburn@gw.dec.state.ny.us'
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357
Attachments: 0301130733a.jpg; 0304131002.jpg; 0304131004.jpg; 2510711.jpg; 2510711_2.jpg

Bob I missed a couple of letters in your email address thanks Doug

From: McKenna, Douglas
Sent: Monday, March 25, 2013 8:31 AM
To: 'rhelburn@gw.dec.state.ny.us'
Cc: Montella, Daniel; Lantner, Murray
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Bob, Phil Greco is an engineer in My Branch who lives in this co-op complex. Some entity cleared all vegetation between the complex and the coastline between 9th and 12th ave. in Whitestone.

Does DEC have any information on this? Who did it, why and under what permitting authority?

Thanks Doug

From: Greco, Philip
Sent: Wednesday, March 20, 2013 11:55 AM
To: rhelburn@gw.dec.state.ny.us; smzahn@gw.dec.state.ny.us; McKenna, Douglas; Lantner, Murray; simaresc@gw.dec.state.ny.us; Jodi.M.McDonald@usace.army.mil
Subject: FW: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

Note: You will receive several emails, with a total of 21 pictures. Attached are photographs of the property that is the resultant of the activity. Also, photos numbered 2510711.jpg and 2510711 2.jpg were taken prior – the summer of 2012.

From: Greco, Philip
Sent: Wednesday, March 20, 2013 11:15 AM
Subject: Preliminary CWA Enforcement Investigation - LeHavre Owners Corporation, 168-68 9th Avenue, Whitestone, New York 11357

EPA's Water Compliance Branch ("WCB") is presently reviewing data/information pertaining to the excavation/grading/soil disturbance activity of the coastal property of LeHavre Owners Corp. between 9th and 12th Avenues, Whitestone, N.Y. conducted on 02/28/13 and 03/01/13. Specifically, this activity may constitute a Clean Water Act ("CWA") violation pursuant to 40 CFR Sections 122.26(a)(1)(ii), 122.26(b)(14), 122.26(b)(14)(x) and 122.26(b)(15)(i).

Initial information/data available to WCB is summarized below:

- (1) Soil disturbance resulting from the excavation and grading between 9th and 12th Avenues was conducted from the coastal waterline up to the permanent structures of this facility. This includes the tidal coastal wetlands, wetlands, the regulated wetlands buffer/boundary layer and adjacent areas.
- (2) The alteration activity was conducted by industrial mechanized equipment.
- (3) Virtually all existing vegetation was removed/excavated from the site as described in (1) above.
- (4) Prior to this activity (02/28/13-03/01/13), a site visit in early January 2013 was conducted by a NYSDEC ECO (Officer Doreen Lum). Management was instructed ,at this time, that prior to any planned activity on this property applications for the required permits must be submitted. This included, but not limited to, the Tidal Wetland Regulations (ECL Sections 1-0101, 3-0301, 25-0302, 6 NYCRR Part 661 and Coastal Erosion Regulations, ECL Section 34, 6 NYCRR Part 505.
- (5) To date, records review indicate that management did not submit any applications for the planned activity. It is presently assumed that this was an unpermitted, unauthorized activity.

As previously stated, WCB is presently investigating the activity as to its merits pertaining to compliance. If you have any information pertaining to this case to help in WCB's assessment, it is respectfully requested that it be submitted via e-mail to greco.philip@epa.gov

Again, thank you for your cooperation in this matter.

Respectfully,

Philip Greco, CHMM, CHME-UN-WSO
Regional Enforcement Specialist
USEPA – Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
212 637-3313
greco.philip@epa.gov

McKenna, Douglas

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